L 52/980

NEWARK PUBLIC LIBRARY
APR 14 1981
U. S. GOVT. PUBS.
DEPOSITORY 376

# THE LEGAL STATUS OF ADOLESCENTS 1980

Department of Health and Human Services
Office of the Assistant Secretary for Planning and Evaluation
Washington, D.C. 20201

HE 23.1002:

# THE LEGAL STATUS OF ADOLESCENTS 1980

Scientific Analysis Corporation
2408 Lombard Street
San Francisco, CA 94123

with

Regional Institute of Social Welfare Research, Inc.
455 N. Milledge Avenue
Athens, GA 30603

This report was developed under a grant from the Office of the Secretary, Department of Health and Human Services as a component part of the project performed for the Administration for Children, Youth, and Families (Grant No. 90-C-1793) entitled, "The Impact of Deinstitutionalization of Status Offenders Upon Child Welfare Services." The results and opinions expressed in this report do not, however, necessarily reflect the position or policy of the Department.

Department of Health and Human Services
Office of the Assistant Secretary for Planning and Evaluation
1981

## LEGAL STATUS OF ADOLESCENTS

## Table of Contents

Chapter — Page

Acknowledgements .................................. ix

Overview .................................. xi

Purpose and Content of the Report .................. xi
Report Methodology .................................. xii

1 Introduction .................................. 1

2 The Disabilities of Minority .................................. 7

Table 2A Parental Immunity from Liability for Injuries to His Child Caused by Parent's Negligence .................................. 17

3 Removing the Disabilities of Minority .................. 25

Table 3A Obtaining Rights of Majority ........... 41

Table 3B Consent Requirements for Marriage ...... 43

Table 3C Marriage as Emancipation of Minors ..... 48

Table 3D Selective Emancipation Statutes Covering Minors' Ability to Enter Valid Contracts .................................. 51

Table 3E Characteristics of Judicial Emancipation Statutes .................................. 54

4 Child's Abilities to Consent to Medical Treatment ... 63

Table 4A Minor's Consent to General Medical, Surgical, Psychiatric and Health Services .................................. 75

Table 4B Minor's Consent to Emergency Treatment 79

Table 4C Minor's Consent to Treatment for Venereal Disease .................................. 82

Table 4D Minor's Consent to Drug and Alcohol Abuse Treatment .................................. 86

Chapter | | Page
---|---|---
Table 4E | Minor's Ability to Obtain Birth Control Services and to Consent to Treatment for Pregnancy ............ | 90
Table 4F | Minor's Consent to Abortion ............ | 94
Table 4G | Voluntary Admission of Minors to Mental Hospitals ...................... | 101
5 | Restrictions on a Child's Freedom to Participate in Activities in the Community ........................ | 107
Table 5A | Child Labor Laws ....................... | 119
Table 5B | Maximum Days, Hours per Day and Hours per Week of Employment for Children of Specified Ages ..................... | 122
Table 5C | Nightwork Prohibitions for Children in the Labor Force ..................... | 129
Table 5D | Motor Vehicle Operator Licensure Laws Applicable to Juveniles ................ | 132
Table 5E | Driving Licensure Requirements ......... | 138
Table 5F | Age at Which Beer, Wine and Distilled Spirits May Be Sold to Young Consumers ............................ | 142
Table 5G | Prohibited Provision of Tobacco Products to Children under a Specified Age ...... | 144
Table 5H | Statutes Prohibiting the Purchase, Possession or Use of Tobacco Products by Children under a Specified Age ......... | 146
Table 5I | Participation in the Political Process .............................. | 150
6 | Juvenile Court ................................... | 153
Table 6A | Juvenile Court Jurisdiction by Age and Category of Conduct ................... | 173
Table 6B | Conduct Which Brings Minor within the Jurisdiction of Juvenile Court ......... | 176
Table 6C | Statutory Analysis - Delinquency Jurisdiction .......................... | 179

Chapter Page

Table 6D Statutory Analysis - Status Offender Jurisdiction .......................... 183

Table 6E Statutory Analysis - Dependency/Neglect Jurisdiction .......................... 187

Table 6F Waiver of Juvenile Court Jurisdiction .. 191

Table 6G Pre-Trial Incarceration of Juveniles in Adult Jails ........................ 196

Table 6H Statutory Rights of Juveniles within the Juvenile Justice System ............ 201

Table 6I Dispositional Alternatives - Delinquents ........................... 205

Table 6J Dispositional Alternatives - Status Offenders ............................. 209

Table 6K Dispositional Alternatives - Dependent/Neglected Children ........... 213

7 Compulsory Education .............................. 217

Table 7A Compulsory Education Requirements ...... 225

Table 7B Exemptions from Compulsory Education Requirements .......................... 230

8 Child's Voice in Custody Decisions ................. 235

Table 8A Child's Voice in Divorce Custody Disputes ............................. 245

Table 8B Child's Vote in Adoption or Guardianship Proceedings ...................... 250

9 Regulating the Conduct of Others to Protect Children. 255

Table 9A Contributing to the Delinquency of a Minor ............................... 265

Table 9B Exhibition, Distribution of Obscene Material to Minors .................... 268

Table 9C Sexual Exploitation of Minors .......... 272

Table 9D Statutory Rape ......................... 275

10 Financial Aid, Social Services and Community Aid .... 279

Chapter Page

Table 10A Title XX Social Services Programs .... 289

Table 10B Drug and Alcohol Abuse Programs ...... 292

Table 10C Child Abuse Prevention and Treatment Programs ............................ 299

Table 10D State Plans for Aid to Families with Dependent Children - Age and School Attendance Eligibility Requirements .. 303

Table 10E AFDC - Payments on Behalf of Unborn Children ............................ 305

11 Other Laws of Interest to the Older Child .......... 307

Table 11A Hitchhiking ......................... 313

12 An Assessment of Governmental Initiatives for Adolescents in the 70's ........................... 319

Table of Appendices

A Marriage, Age of Consent, Emancipation by Marriage . 339

B Selective Emancipation Statutes: Minor's Ability to Enter into Valid Contracts ...................... 343

C Characteristics of Judicial Emancipation Statutes .. 347

D Selective Emancipation Statutes: Minor's Ability to Obtain Medical Care without Parental Consent .... 349

E Voluntary Admissions of Minors to Mental Hospitals . 355

F Juvenile Court .................................... 359

G Waiver of Juvenile Court Jurisdictions ............ 363

H Pre-Trial Incarceration of Children with Adults .... 367

I Procedural Protections for Juveniles in the Juvenile Justice System .................................. 371

J Compulsory Education .............................. 375

K Child's Voice in Custody Decisions ................ 379

L State Plans for Aid to Families with Dependent Children - Eligibility Statutes ................... 385

Table of Appendices

Page

M Drug and Alcohol Abuse Programs ..................... 389

N Child Abuse Prevention and Treatment Programs ....... 393

O Statutory Rape Laws ................................ 397

P Contributing to the Delinquency of a Minor .......... 401

Q Prohibited Distribution of Obscene Materials to Minors ........................................ 403

R Sexual Exploitation of Minors ...................... 407

# ACKNOWLEDGEMENTS

This report was the product of a joint effort of Scientific Analysis Corporation (SAC), San Francisco, and the Regional Institute of Social Welfare Research (RISWR), Inc., Athens, Georgia.

Overall guidance for this project throughout its development was provided by William L. Daniels, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

Dr. Dorothy Miller, President of SAC, held lead responsibility for managing all project activities and Al Richmond, also of SAC, supervised the editing of the report.

The first 11 chapters were researched and written by SAC staff associate Paula Downey, Assistant Professor, Hastings College of the Law, who was ably assisted by the following graduate students: Suzanne Badenhoop, Eileen Braunweiter, Katy Butler, Gail Clark, Leslie Dery, Lynn Glazier, Rebecca Hull, Julie Steward and Debbie Waldbaum, all of Hastings College of the Law; and Ken Simmons of U.C.L.A.

Dr. George Thomas, President of RISWR, contributed the Overview and closing chapter and RISWR staff associate Alan Turem, JD, conducted trend research and provided the Trend Summary pages preceding each chapter.

Typing was carried out by Cassandra Curtis Zimmerman of SAC and Christine Bennett of RISWR. The report was printed by RISWR under the direction of Virginia Vaughn.

Cover design by George Thomas.

# OVERVIEW

## Purpose and Content of the Report

In 1975 Herbert Beaser drafted a report on laws relating to runaway children for the Department of Health, Education and Welfare.[1] That report, popularly referred to as the "Beaser Report," provided summary tables and accompanying assessments of statutory law in each state, Guam, the Virgin Islands, Puerto Rico and the District of Columbia. Topics covered by the Report included age of majority, emancipation, the rights and responsibilities of minors vis-à-vis the juvenile court, public education, social services and child labor laws, and laws governing such other matters as statutory rape, consent to medical treatment, contributing to the delinquency of a minor, marriage, motor vehicles, curfew, hitchhiking, and the use of tobacco, alcohol and drugs.

Events emerging at the time of publication that would have an impact upon the legal status of runaways, and, indeed, upon adolescents generally, could not, of course, be fully anticipated. Notably, the Juvenile Justice and Delinquency Prevention Act and the Child Abuse Treatment and Prevention Act, both enacted in 1974, were just beginning to make themselves felt in the form of changes in state juvenile codes and other statutes. Further, numerous court cases dealing with children's rights relative to institutionalization, custody, birth control, abortion and other matters were, in the mid-seventies, just beginning the slow process of moving through the lower courts toward resolution by the U.S. Supreme Court.

These and other developments prompted the Office of the Assistant Secretary for Planning and Evaluation of the Department of Health, Education and Welfare (now the Department of Health and Human Services) in 1979 to commission Scientific Analysis Corporation and the Regional Institute of Social Welfare Research to prepare an update of the Beaser Report reflective of the legal status of adolescents in 1980.

This "second generation" report conforms to the original report in large part by presenting tables updated to 1980 on statutory law for each state, Guam, the Virgin Islands, Puerto Rico and the District of Columbia for every topic covered in 1975.

In some cases topics have been reorganized under new chapter headings to enhance the logic and flow of the document. Each chapter provides a thoroughly researched discussion of the sources of change occurring during the 1975-1980 time period that affected the topics covered. As a further refinement, a Trend

---

[1] Herbert Beaser, Runaway Youth from What To Where: The Legal Status of Runaway Children (Washington, D.C.: Educational Systems Corporation, April, 1975).

Summary page preceding every chapter serves to highlight the key changes and/or emerging issues identified within each chapter.

In addition to an updating of established topics, this report treats a number of new topics that emerged or became the focus of intensified concern during the last five years. New inclusions deal with such topic areas as emancipation statutes, commitment of minors to mental health institutions, children's participation in the political process, incarceration of children in adult jails, waiver of juvenile court jurisdiction, deinstitutionalization and alternative placements of status offenders, child's voice in custody decisions, community support programs, and laws prohibiting the sexual exploitation of children.

Finally, the closing chapter presents a summary sketch of federal program initiatives for children during the 1975-1980 period and a rudimentary assessment of their cumulative effect upon shaping the current status of adolescents. The aim of this chapter is to provide a context for estimating the actual or impending consequences for adolescents of the specific changes and trends identified throughout the report.

## Report Methodology

The methodology utilized in preparing this report was designed to meet the demand for logical consistency with the earlier Beaser Report and to serve the goal of identifying changes and trends that emerged or intensified between 1975 and 1980.

Following from this, a thorough analysis of statutory law for each state and the various territorial jurisdictions was conducted to update all topics as previously established in the Beaser Report.

New topics treated in this report were identified primarily through an analysis of U.S. Supreme Court decisions and federal legislation that occurred during the last five years. Once identified, these topics were also subjected to a thorough statutory search to determine the extent to which they had become established in law at state and territorial levels.

Finally, a search was conducted to identify pending federal court cases--and in some instances state court cases that appeared to deal with issues of national import, and to identify bills relevant to adolescents pending before state legislatures that were in session as of March, 1980, for purposes of facilitating an analysis of trends.

Although the scope of inquiry was broad by intent, its limitations should be clearly understood. First, and perhaps foremost, this report does not cover all laws that relate to adolescents. Not covered are laws that affect children only because they are members of another group. For example, there is no discussion of collective bargaining laws that affect all workers, of immigration laws, of anti-discrimination laws that affect adult and child members of racial, religious or other minority groups, of Indian Tribal law, or of Federal law excepting the commentary provided in the closing chapter.

Second, the report is limited in that case law was not examined in depth, except for pertinent U.S. Supreme Court cases and a few lower court decisions that appeared to have exceptional importance as indicators of future trends. The sheer bulk and volatility of case law emanating from lower court interpretations of statutory law over the last five years was simply beyond our means to address.

Finally, the tables present only a 1980 update of the legal status of adolescents in each state and territorial jurisdiction. Given the complexity of the data that is presented, no method could be devised to show, in each table, statutory changes that occurred between 1975 and 1980 that would not have been more confusing than enlightening.

The reader can readily make such statutory comparisons to determine if specific statutes have been adopted, amended or repealed, however, by referring to the report's statutory appendices. These appendices are organized by topic and provide complete identifying information for the governing statutes within each topic area for each state and territorial jurisdiction.

Thus, within these limits, this report brings to the reader an up-to-date compilation of information on the legal status of adolescents and a ready resource for assessing the changes and trends with which they must contend today.

# TREND SUMMARY

## Chapter 1: Introduction

The paradigm of legal rights of children (or minors, as used herein) is yet to be completed and the parameters have not been fully defined nor are they likely to be before this century is over.

U.S. Supreme Court decisions, such as Bellotti v. Baird (Consent and Teenage Abortion), Gross v. Lopez (Due Process in School), and J.R. v. Parham (Commitment of Minors to Mental Institutions) never fully resolve a generic issue like "the right of privacy" nor do they fully cover the extent to which the Constitution is applicable to minors. Each case is usually narrowly limited in scope with a minimum of case law development. Thus, it is left to future cases to complete or add to the paradigm known as "children's rights."

Of course all this simply adds to the general confusion that prevails in an area that has slowly developed over 500 years. Stated another way, the Supreme Court will annunciate its decision on a particular topic. This decision may or may not be reflected in legislative activity. If the States do not act to clarify the situation in harmony with that decision, then the law in that particular State will remain unclear. Or the legislature may deal with the problem only superficially and not deal with the entire area in some uniform manner. A contemporary example of this last paragraph can be seen in the abortion cases where they involve teenagers, particularly where the issue is notice to parents.

For the decade ahead, we can expect continued Supreme Court decisions on the topic of minors and their rights as gleaned from the Constitution of the United States.

# CHAPTER 1

## AN INTRODUCTION

Children do not have the capacity to govern themselves. Adults must care for, educate and guide children; they must make decisions for children. The law applicable to children is based on these assumptions; much of the law is concerned with defining the relationship between the child, her parents and the state. The law supports parents in their roles as primary decisionmakers for their children. Thus, the Supreme Court has declared, "It is cardinal with us that the custody, care and nurture of the child reside first in the parents."[1] In this declaration the court was articulating the deeply held cultural belief that parents are the natural guardians of their children.

Although the law presumes the capacity and recognizes the authority of parents to care for their children, parental authority is not unlimited. The state also has a role in supervising, guiding and protecting children. Bentham has observed:

> It would seem at first glance that the legislator need not interfere between fathers and children; that he must trust to the tenderness of the parent, and the gratitude of the child....But this superficial view would be deceptive. It is absolutely necessary, on the one side, to limit paternal power, and on the other, to maintain that respect by legal enactments.[2]

The state does act to limit parental power. It sets minimum standards for parental decisionmakers in neglect, abuse and abandonment statutes (see Chapter 6) and in statutes which regulate the conduct of adults, including parents, to protect children (see Chapter 10). It steps in to make decisions for the child when the child's misbehavior is harmful to the community (see Chapter 6). It makes decisions that participation in certain activities in the community would be harmful to children and restricts participation even though the parent might choose to allow it (see Chapter 5).

There are, thus, two decisionmakers for the child. In allocating decisionmaking power between parents and state, the Supreme Court has weighed the relative interests of the parents and the state.[3] It has assumed that the parents' and child's interests coincide. It is not until he reaches the age of majority (see Chapter 3) that the child is allowed by law to make decisions for himself. Parents may allow children a voice in the decisionmaking process or may even allow the child to decide for himself, but they are not required to.

---

[1] Prince v. Massachusetts, 321 U.S. 166 (1964).

[2] J. Bentham, Theory of Legislation, 252-253 (1840).

[3] See, e.g., Meyer v. Nebraska, 262 U.S. 390 (1923; Pierce v. Society of Sisters, 268 U.S. 510 (1925); Prince, supra note 2; Wisconsin v. Yoder, 406 U.S. 205 (1972).

Childhood is not a homogeneous state; it is a process of growth and change. As children mature they have an increasing capacity to decide for themselves and a decreasing need to be protected by the parent or state. The community recognizes the child's growth of competence by requiring more of him as he grows older, yet in most respects the law treats childhood as a homogeneous entity. As if rationality and judgment sprang magically into being at the state-specified age of majority, the state treats all children below that age as incapable of decisionmaking in virtually all major areas.

We are comfortable with parents (or if they default, the state) making decisions for younger children. We are comfortable with allowing those who reach adulthood to make decisions for themselves. But what about that group of older children who are able to hold and express views which differ from those of their parents and who have increasing abilities to regulate themselves? The older children, in seeking expanded autonomy either by leaving the parental home or by efforts to become self-supporting and self-regulated, are likely to come into conflict with those who make decisions for them during their minority. For these older children capable of deciding or at least participating in decisionmaking, should the law recognize that the parents' and children's interests may be different? Should the law provide a forum for the children to express their wishes?

In areas in which the state makes decisions for children, it is limited by Constitutional considerations. As the court has made clear in a number of decisions, children have Constitutional rights.[4] These rights are not commensurate with those of adults:

> We have recognized three reasons justifying the conclusion that the constitutional rights of children cannot be equated with those of adults: the peculiar vulnerability of children; their inability to make critical decisions in an informed, mature manner; and the importance of the parental role in childrearing.[5]

Nonetheless, the state cannot arbitrarily deprive a child of his liberty: where the child's interest is likely to be adverse to the state's the state must either

---

[4] See, e.g., In re Gault, 387 U.S. 1 (1967); Breed v. Jones, 421 U.S. 519 (1975); Goss v. Lopez, 419 U.S. 565 (1975).

[5] Bellotti v. Baird, 99 S. Ct. 3035, 3040 (1979).

(a) involve the child in decisionmaking by giving him necessary information, listening to him and allowing him to have representatives speak for him[6] and (b) give the child's interest due consideration in a rational decisionmaking process.[7] When a parental decision affects the fundamental interests of an older child, should the state provide a forum in which the child may be heard?

In the past year the Supreme Court has decided two cases in which counsel asserted that there might be a conflict between the parent's and the child's interests. In Bellotti v. Baird[8] (discussed in Chapter 4) the court addressed the question of what to do when a pregnant minor wants an abortion but is unable to get her parents' consent or is unwilling to consult with them. The court ruled that the states must provide a forum for the child. The child must have the opportunity to come into court to demonstrate (a) that she is mature enough to make the decision herself or (b) that though she is not mature enough the court, rather than her parents, should decide if an abortion is in the child's best interests. The Supreme Court thus decided that, at least in this one area, the state should intervene in the parent-child decisionmaking process even though there is no evidence that the parent's decision would result in neglect or abuse of the child or that it would intrude in an area of state decisionmaking responsibility. This limitation on parental authority was justified by the necessity of protecting the minor's Constitutional right to privacy.

In a second decision, however, the Supreme Court refused to require an adversarial hearing where the interests of the parent and child might be conflicting. In J.R. v. Parham[9] (discussed in Chapter 4), a Georgia statute which allowed parents to commit a child to a mental hospital was upheld. The statute required review by hospital personnel but did not require a judicial proceeding at which the child could be heard. JR, the named plaintiff in Parham, was a young child. In refusing to require a judicial forum for the child the court did not, however, address JR's decisionmaking ability. The court did not believe that the parents' and child's interests were disparate. It believed that the parents and a medical decisionmaker could protect the child's liberty interests without state intervention.

The Supreme Court thus has begun to explore the child's role in decisionmaking. It has not yet definitively set out those situations in which children must be heard or may decide for themselves. It has not given states much guidance as to how allocations of decisionmaking power should reflect an older child's increasing capacity to decide for himself. State legislature are, nonetheless, gradually becoming aware of and responsive to the needs and rights of older children. In this report, the investigator has explored how that growing awareness has been reflected in the jurisdictional allocation of decisionmaking power between parent, state and child in a variety of areas important to the child. She has attempted to answer the questions: In what areas does the state decide for the child? In what areas does the state support parental decisionmaking? In what areas does the state either allow the child to make his own decision or provide a forum for the child to insure that the child will be consulted and informed?

---

[6] See, e.g., Gault supra note 5.

[7] See, e.g., Ginsberg v. New York, 390 U.S. 629 (1968); Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

[8] 99 S. Ct. 2493 (1979).

[9] Id.

# TREND SUMMARY

## Chapter 2: Disabilities of Minority

The areas highlighted by this Chapter, with one notable exception, are virtually the same as they were ten years ago. There have been few substantive changes in the majority of topics listed in this Chapter. The notable exception is the right of minors to consent to various types of medical and surgical treatment. Other than this area, many of the changes are more of the technical (e.g., age setting) type rather than of the substantive type. For example, there has been no traditional adjustment in the ability (or right) of a minor to establish his or her own domicile, retain their own earnings, sue or to be sued or sue their parents. (A comparison of case law development since the original report will indicate that only one or two States have even had a decision on the topic of parental immunity and the liability resulting therefrom.)

On the other hand, one of the most notable trends in the area of minors has been the expansion mostly by the Courts, of the parameters of the unemancipated child (i.e., to liberate the minor from the long socialization process) at least as to certain things. For instance, many Courts have increasingly expanded the definition of necessaries in order to create a binding contractual relationship between a minor and merchants. It is projected that in the 80's more and more Courts will continue to seek ways that will allow a child to sue his/her parents for abuse and neglect or for injuries sustained by a child because of neglect of the parents.

# CHAPTER 2

## THE DISABILITIES OF MINORITY

Acting upon the premise that children lack the competence to make important decisions about their lives and conduct, adults have developed laws that both protect children and severely limit children's abilities to function independently of their parents. As mentioned in Chapter 1, the law is not tailored to take into account the progressively developing capacity of children. Older minors, except in limited circumstances,[1] are as disabled as younger children in the eyes of the law.

The court in Dixon v. United States[2] saw the disabilities of minority in a positive light. It stated:

> The legal disabilities of infants are really privileges, which the law gives them, and which they may exercise for their own benefit, the object of the law being to secure infants from damaging themselves or their property by their own improvident acts or prevent them from being imposed upon by others. The rights of infants must be protected by the court, while adults must protect their own rights....Minority is in itself a recognized badge of incompetency to an infant to handle his own affairs.

Other commentators find that disabilities are unjustly disabling, that they are an unconscionable burden rather than a privilege. Patricia Wald, for example, describes the dependent status of children in dramatic terms with strong overtones of disapproval:

> At birth his parents can place him for adoption; if he is handicapped, they can institutionalize him; in severe cases, they (and the doctors) can covertly agree to let him die. If his family neglects or abuses him, he may be able to complain to another adult, but he cannot take legal action by himself or even leave home legitimately. He goes to the school his parents (or the State) pick--even if he must leave home and neighborhood. Sick or troubled, he still cannot seek medical or psychiatric treatment without parental consent. If he works, he must hand over his wages. There are severe limits on what he can buy or invest without

---

[1] See Chapter 3 *infra*, "Removing the Disabilities of Minority," part 4, "Selective Emancipation Statutes."

[2] Dixon v. United States, 197 F. Supp. 798, 803 (W.D.S.C. 1961).

> permission; he has no credit rating. His parents can select his religion, his friends, his clothing. They can regulate when he goes out. In the hospital or doctor's office, no one asks his consent to serious surgery, mind-altering drugs, painful medical procedures, even to becoming a subject in outright medical experimentation with long-term risks to health. He cannot control access to his room, his school locker, his school or medical records, despite their potential for foreclosing options in his later life; often he has no access to those records himself. John Kennedy, in 1963, asked whether any white would truly want to be imprisoned in a black skin. We might ask whether any of us would want to be consigned to the trap of childhood.[3]

The disabilities of minority discussed in this chapter affect the child's ability to make decisions. They are the disabilities which are related to and which flow naturally from two portions of the state's plan[4] to protect children:

### A. Make parents the primary decisionmakers for their children

It is manifest that the state, even through its myraid of agencies, cannot see to the welfare of each child. There is, therefore, a duty imposed upon parents, which reinforces their natural duty, to provide the necessary support, care, guidance and maintenance for their children. To aid parents in performing this duty, parents have been given the right to make decisions about the care, custody, education, control and upbringing of their children. Parents have been promised support of the state in their roles as decisionmakers as long as the parents' decisions do not result in abuse or neglect of the child and do not conflict with laws and regulations the state has enacted to protect children (e.g., labor laws). Where parents have been entrusted with decisions, children have been disabled from making them because "whatever would unduly impair parental authority should be given up by the child for his ultimate good."[5]

### B. Keep children out of business transactions

A child's presumed lack of capacity makes it necessary to both protect the child from his own errors of judgment and to protect him from exploitation by others. One way to do this is to make the child legally incapable of carrying out business transactions.

---

[3] Wald, Making Sense Out of the Rights of Youth, 4 Human Rights 13 16-17 (1974).

[4] See Chapter 1 *supra* for a more thorough discussion of the "state's plan."

[5] Dunlap v. Dunlap, 84 N.H. 352, 150 A. 905 (1930).

The disabilities that flow from the minor's dependent position and that are tied to the age of majority in most jurisdictions include inabilities to:

- establish own domicile
- retain own earnings
- enter into binding contracts
- consent to own medical, surgical, dental or psychiatric care without the parents' consent
- sue or be sued in own name
- sue parents for injuries caused to the child by the parents
- make a will
- hire an agent or be an agent
- enter a partnership
- convey real property

Some of these disabilities are discussed briefly below. Limitations on minors' freedom that are not explicitly tied to the age of majority are discussed in later chapters.[6]

### 1. Inability to Establish Own Domicile

The term "domicile" can be defined as that "place where a man has his fixed, true and permanent home and principal establishment and to which, when he is absent, he has the intention of returning."[7]

At common law, a child acquired at birth the domicile of his father, or, if the father was dead or the child was illegitimate, the child acquired the domicile of his mother. The child cannot by an act of his own change his domicile. Even if the remaining parent who determines the child's domicile dies, the child keeps the domicile of the parent until the child acquires another guardian. The domicile then follows the child to the new person.[8] If parents are divorced, the domicile is that of the custodial parent.

One should distinguish between "domicile" and "residence" because different legal effects attach to each. The term domicile has an aura of permanence that residence lacks. A person may "have two places of residence, as in the city and country, but only one domicile. Domicile means living in that particular locality with intent to make it a fixed and permanent home. Residence simply requires bodily presence in that place and also an intent to make it one's own domicile."[9]

---

[6] See Chapters 4, 5, 8, 9 (in part) and 10 (in part) infra.

[7] Black's Law Dictionary 522 (4th ed. 1968).

[8] H. Clark, Law of Domestic Relations 152 (1968).

[9] Black's Law Dictionary 1412 (4th ed. 1968) citing In re Riley's Will, 266 N.Y.S. 209, 148 (Misc. 588).

The child is unable, however, to establish either his own domicile or his own residence. Again, his residence is that of the person he lived with. He is able to influence his residence only to the extent he can choose the adult with whom he wants to live.[10]

### 2. Inability to Retain Own Earnings

At common law, the parents were entitled to the earnings and services of their minor child.[11] This common law tradition is incorporated in statutes of most jurisdictions today. The parent may relinquish this right and allow the child the right to keep and control his earnings. Relinquishment might be express or implied from the continuing conduct of the parent and child. The presumption today is that if the child has a job and keeps and spends his earnings it is with parental assent. Parents do not have the same incentive to claim a child's wages as in decades past:

> Until the late nineteenth century, young people often assumed adult work roles and contributed to the family support.... While parents still have the legal right to the earnings of their minor children, few children can have earnings that substantially contribute to the family pot...moreover, social security and pension funds appear to be displacing the family as the primary source of old age assistance.[12]

### 3. Inability to Enter Binding Contracts

At common law, the contract of a minor was either void or voidable at his option. R. Edge gives an interesting view of why minors were not allowed to enter into binding contracts:

> A father was due the earnings of an unemancipated minor until the latter reached his majority. One way to make certain that the father would not be deprived of this was by allowing disaffirmance of the child's contract when he spent his earnings on something considered foolish by his father....Also, if a minor sold his father's cow and took money to buy something for himself, the father could regain his cow if the minor could disaffirm the contract.[13]

---

[10] For child's input into custodial decisions, see Chapter 8 infra, "What Voice for the Child in Custody Decisions?"

[11] W. Blackstone, Commentaries * 453.

[12] R. Mnookin, Child, Family and State 169 (1928) explaining work of Stern, Smith & Doolittle, How Children Used to Work, 39 Law & Contemp. Prob. 93 (1975).

[13] Edge, Voidability of Minors' Contracts: A Feudal Doctrine in a Modern Economy, 1 Ga. L. Rev. 205, 221 (1967).

Policy reasons more frequently heard are protection of child from his lack of mature judgment and vulnerability to exploitation by others. Edge notes that "an examination of virtually all of the contract cases of the past twenty years reveals that most of the minors who have been allowed to disaffirm their contracts were not in need of this protection."[14] The common law rule nonetheless remains that minors may generally disaffirm their contracts during minority and within a reasonable time after reaching majority.

An exception to this general rule of disaffirmance is recognized where the contract is one to provide the child with necessaries not otherwise provided by the parents. Necessaries means:

> ...food, drink, clothing, medical attention, and a suitable place of residence, and they are regarded as necessaries in the absolute sense of the word; however, liability for necessaries is not limited to articles required to sustain life; it extends to articles which would ordinarily be necessary and suitable in view of the rank, position, fortune, earning capacity, and mode of life of the husband or father.[15]

Further efforts to reduce the hardships to those dealing with the minor led to common law rules that (a) require a minor, when he disaffirms, to make a good faith effort to return the goods, (b) allow the merchant to deduct for depreciation in the product, and (c) forbid the minor from raising age as a defense in a contract action if the minor has misrepresented his age.[16] Suggestions by commentators that full-scale reform is needed to eliminate the hardship to those dealing with minors have not been heeded by the courts. The broadest reform suggested is that minors be found to be generally capable of entering contracts and that those dealing with minors be subject to recognized rules of fraud, duress and malice.[17] In deciding whether there has been fraud, duress or malice the court would take into consideration the fact that a child was being dealt with.

### 4. Inability to Sue or Be Sued in Own Name

At common law, the rule was that a minor could neither sue nor be sued. If the minor were sued, he could only defend through a guardian who would be named as one of the defendants to the suit. If the minor wanted to sue he could do so only through a guardian or next friend.[18]

---

[14] *Id.* at 227.

[15] *Black's Law Dictionary* 1181 (4th ed. 1968) citing *Caruso v. Caruso*, 102 N.J. Eq. 393 (41 A. 16).

[16] H. Clark, *Law of Domestic Relations* 234-40 (1968).

[17] Foster & Freed, *A Bill of Rights for Children*, 6 *Fam. L. Q.* 343 (1972).

[18] H. Clark, *Law of Domestic Relations* 233 (1968).

### 5. Inability to Consent to Medical, Surgical, Psychiatric or Dental Treatment

Parents were allowed to make all decisions about care of the child. These included decisions about medical and surgical care. Parents would not be liable for services provided at the request of the child without parental consent. Additionally, doctors who rendered treatment to a minor could be held liable for battery. This topic is covered in more detail in Chapter 5.

### 6. Inability to Sue Parent for Injuries Parent Causes to the Child

At common law the child could sue his parents for damage to his property.[19] Although there were no actions for personal torts, Prosser suggests that there is no reason to believe that English courts would not have permitted such actions.[20] Beginning in Mississippi in 1891,[21] American courts adopted the rule that parents by virtue of their status were immune from liability for personal injuries suffered by the child at the parents' hands.

Policy reasons behind this immunity included: preservation of domestic tranquility, eliminating danger of fraud and collusion, desire to keep from interfering with parental control, and fear that family assets would be depleted (to the ultimate disadvantage of the child). Nonallowance of suit, on the other hand, had certain negative ramifications: loss of deterrent impact on the parents' conduct, lack of compensation for injured child, and unfairness to third parties whose conduct may have combined with parents to cause the injury (in the last, unfairness occurs because third party will be responsible for the total damage). Much of the benefit of the doctrine of parent-child immunity accrued to the parents' insurance company.

Dislike of the parent-child immunity doctrine led to a series of exceptions or limitations. In many jurisdictions the doctrine was not available if: one or both parties had died, the parents had insurance coverage, there was willful, wanton or grossly negligent conduct on the part of the parent, injury occurred in connection with parent's business activities, or the injury was also a breach of duty to the general public. Table 2A (which immediately follows) shows what exceptions each jurisdiction has carved out, in those jurisdictions which still generally recognize parent-child immunity.[22]

---

[19] W. Prosser, The Law of Torts 865 (4th ed. 1971).

[20] Id.

[21] Hewlett v. George 68 Miss. 763, 9 So. 885 (1891).

[22] See also 41 A.L.R.3d 943-64 (1972) for further discussions of parent-child immunity.

A growing number of jurisdictions do not generally recognize parent-child immunity. Beginning in Wisconsin[23] in 1963, courts in 18 jurisdcitions abrogated the doctrine. These jurisdictions also recognized exceptions, special circumstances in which immunity is still appropriate. The major exception is for conduct on the parents' part which is within the scope of parental authority or duty.

---

[23] Goller v. White 20 Wis. 2d 402, 122 N.W.2d 193 (1963).

# EXPLANATION OF SYMBOLS

## TABLE 2A

## PARENTAL IMMUNITY FROM LIABILITY FOR INJURIES TO HIS CHILD CAUSED BY PARENT'S NEGLIGENCE

In jurisdictions where the general rule is immunity, exceptions have been recognized in cases involving the following fact situations:

A. Auto injury
B. Death of parent and child
C. Death of parent
D. Death of child
E. Injury occurred in connection with parent's business activity
F. Gross negligence on parent's part
G. Insurance
H. Loco parentis (defendant is one standing in parent's role)
I. Malicious, willful or wanton conduct on parent's part
J. Other duty breached by parent (e.g., to public common carrier
K. Policy reasons not present

In jurisdictions where the general rule is no immunity, immunity has been preserved in cases involving the following fact situations:

M. Conduct is within parent's authority over child or is in exercise of parental discretion
N. Insurance coverage exceeded

TABLE 2A

PARENTAL IMMUNITY FROM LIABILITY FOR
INJURIES TO HIS CHILD CAUSED BY PARENT'S NEGLIGENCE

| | | | EXCEPTIONS - NO IMMUNITY IF | | | | | | | | | | | IMMUNITY IF | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | GENERAL RULE IS IMMUNITY | GENERAL RULE IS NO IMMUNITY | A | B | C | D | E | F | G | H | I | J | K | M | N |
| Alabama | Owens v Auto Mutual Indemnity Co. (1937) 235 Ala 9, 177 So 133 | | | | | | | | | | | | | | |
| Alaska | | Hebel v Hebel (1967 Alaska) 435 P.2d 8 | | | | | | | | | | | | X | X |
| Arizona | | Strenz v Strenz (1970) 106 Ariz 86, 471 P2d 282 | | | | | | | | | | | | | |
| Arkansas | Rambo v Rambo (1938) 195 Ark 832 114 SW 201 468 | | | | | | | | | | | | | | |
| California | | Gibson v Gibson (1971) 3 Cal 3d 914, 479 P.2d 648 | | | | | | | | | | | | | |
| Colorado | Series of cases | | | | | | X | | | | X | | | | |
| Connecticut | Mesite v Kirchstein (1929) 109 Conn 77, 145 A 753 | | | | | | | | | X | | | | | |

TABLE 2A

## PARENTAL IMMUNITY FROM LIABILITY FOR INJURIES TO HIS CHILD CAUSED BY PARENT'S NEGLIGENCE

| | | | EXCEPTIONS - NO IMMUNITY IF | | | | | | | | | | | IMMUNITY IF | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | GENERAL RULE IS IMMUNITY | GENERAL RULE IS NO IMMUNITY | A | B | C | D | E | F | G | H | I | J | K | M | N |
| Delaware | Strahorn v Sears, Roebuck & Co (1956) 50 Del 50 123 A2d 107 | | | | | | | | | | | | | | |
| District of Columbia | Dennis v Walker (1968 DC Dist. Col.) 284 F Supp 413 Note a | | | X | | | X | | | | X | | | | |
| Florida | Orefice v Albert (1970 Fla) 237 So2d 142 | | | | | | | | | | | | | | |
| Georgia | Eschan v Roney 127 Ga App 719, 194 SE2d 589 | | | | X | | | | X | | X | | | | |
| Hawaii | | Peterson v Honolulu (1969) 51 Hawaii 484, 462 P2d 1007 | | | X | X | | | | | X | X | | | |
| Illinois | Gerrity v Beatty (1978) 71 Ill 2d 47, 373 NE 2d 1323 | | | | | | | | | | | | | | |
| Indiana | Smith v Smith (1924) 81 Ind App 566, 142 NE 128 | | | | | | | | | | | | | | |

NOTE a) Continuing validity in doubt following Emmert v US (1969 DC Dist. Col.) 300 F. Supp. 45.

## TABLE 2A

## PARENTAL IMMUNITY FROM LIABILITY FOR INJURIES TO HIS CHILD CAUSED BY PARENT'S NEGLIGENCE

| STATE | GENERAL RULE IS IMMUNITY | GENERAL RULE IS NO IMMUNITY | EXCEPTIONS - NO IMMUNITY IF | | | | | | | | | | | IMMUNITY IF | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | A | B | C | D | E | F | G | H | I | J | K | M | N |
| Iowa | Barlow v Ibings (1968)<br>156 NW2d 105 | | | | | | | | | | | | | | |
| Kentucky | | Rigdon v Rigdon (1970 Kty.)<br>463 SW2d 631 | | | | | | | | | | | | | |
| Louisiana | Rouley v State Farm Mutual (1964 DC La)<br>235 F Supp 786, applying La Statute | | | | | | | | | | | | | | |
| Maine | Skillin v Skillin (1931)<br>130 Me 223, 154 A 570 | | | | | | | | | | | | | | |
| Maryland | Mahnke v Moore (1951)<br>197 Md 61, 77 A2d 923 | | | | | | | | | | | | | | X |
| Massachusetts | | Sorenson v Sorenson (Mass)<br>339 NE 2d 907 | | | | | | | | | | | | X | |
| Michigan | | Plumley v Klein 388 Mich 1,<br>199 NW 2d 169 | | | | | | | | | | | | X | |

TABLE 2A

## PARENTAL IMMUNITY FROM LIABILITY FOR INJURIES TO HIS CHILD CAUSED BY PARENT'S NEGLIGENCE

| | | | EXCEPTIONS - NO IMMUNITY IF | | | | | | | | | | | IMMUNITY IF | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | GENERAL RULE IS IMMUNITY | GENERAL RULE IS NO IMMUNITY | A | B | C | D | E | F | G | H | I | J | K | M | N |
| Minnesota | | Sileski v Kelman (1968) 281 Minn 431, 161 NW 2d 631 | | | | | | | | X | | | | | |
| Mississippi | Lancaster v Lancaster (1952) 213 Miss 536, 57 So 2d 302 | | | X | X | | | | | | | | | | |
| Missouri | Brennecke v Kilpatrick (1960 Mo) 336 SW 2d 68 | | | | | | | | | | | | | | |
| Montana | | | | | | | | | | | | | | | |
| Nebraska | Pullen v Novak (1959) 169 Neb 211, 99 NW 2d 16 | | | | | | | | | | | | | | |
| Nevada | | Rupert v Stein 528 P2d.1013 | | | | | | | | | | | | | |
| New Hampshire | | Briere v Briere (1966) 5 107 NH 432 224 A.2d 88 | | | | | | | | | | | | | |
| New Jersey | | France v A.F.A. Transport Co (1970) 56 NJ 500, 267 A.2d 490 | | | | | | | | | | | | | |
| New Mexico | Nahas v Nahas 77 NM 139, 420 P2d 127 | | | | | | | | | | | | | | |

## TABLE 2A

## PARENTAL IMMUNITY FROM LIABILITY FOR INJURIES TO HIS CHILD CAUSED BY PARENT'S NEGLIGENCE

| STATE | GENERAL RULE IS IMMUNITY | GENERAL RULE IS NO IMMUNITY | EXCEPTIONS - NO IMMUNITY IF | | | | | | | | | | | IMMUNITY IF | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | A | B | C | D | E | F | G | H | I | J | K | M | N |
| New York | | Gelbman v Gelbman (1969) 23 NY 2d 434, 245 NE 2d 192 | | | | | | | | | | | | | |
| North Carolina | | Christenburg v Hedrick (Statute) 32 NC App 708 234 SE 2d 3 | | X | | | X | | | | | | | | |
| North Dakota | | Nuelle v Wells (1967 ND) 154 NW 2d 364 | | | | | | | | | | | | | |
| Ohio | Stacey v Fidelity & C. Co. (1926) 114 Ohio 633, 151 NE 718 | | | X | | | X | | | | X | X | | | |
| Oklahoma | Tucker v Tucker (1964 Ok) 395 P2d 67 | | | | | | | | | | | | | | |
| Oregon | Chaffin v Chaffin (1964) 239 Or 374, 397 P2d 771 | | | | | | | X | | | | | | | |
| Pennsylvania | | Falco v Pados 444 Pa 372, 282 A2d 351 | | X | X | X | | | | | | | | | |

# TABLE 2A

## PARENTAL IMMUNITY FROM LIABILITY FOR INJURIES TO HIS CHILD CAUSED BY PARENT'S NEGLIGENCE

| STATE | GENERAL RULE IS IMMUNITY | GENERAL RULE IS NO IMMUNITY | EXCEPTIONS - NO IMMUNITY IF | | | | | | | | | | | IMMUNITY IF | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | A | B | C | D | E | F | G | H | I | J | K | M | N |
| Puerto Rico | Agustin v Ortiz (1951 CA 1 Puerto Rico) 187 F2d 496, applying Puerto Rican law | | | | | | | | | | | | | | |
| Rhode Island | Matarese v Matarese (1925) 47 RI 131, 131 A 198 | | | | | | | | | | | | | | |
| South Carolina | Kelly v Kelly (1930) 158 SC 517, 155 SE 888 | | | X | | | | | | | | | | | |
| Tennessee | Ownby v Kheyhammer (1952) 250 SW 2d 37 194 Tenn 109 | | | | | | | | | | | | | | |
| Texas | Aboussie v Aboussie (1954 Tex. Civ. App.) 270 SW 2d 636 | | | | | | X | | | | | | | | |
| Vermont | | Xaphes v Mossey (1963 DC Vt) 224 F. Supp 578, applying Vermont law | X | | | | X | | | | | | | | |

## TABLE 2A

## PARENTAL IMMUNITY FROM LIABILITY FOR INJURIES TO HIS CHILD CAUSED BY PARENT'S NEGLIGENCE

| | | | EXCEPTIONS - NO IMMUNITY IF | | | | | | | | | | | IMMUNITY IF | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | GENERAL RULE IS IMMUNITY | GENERAL RULE IS NO IMMUNITY | A | B | C | D | E | F | G | H | I | J | K | M | N |
| Virginia | Norfolk Southern R. Co. v Gretakis (1934) 162 Va 597, 174 SE 841 | | | | | | | X | X | | | X | | | |
| Washington | Borst v Borst (1952) 41 Wash 2d 642, 251 P2d 149 | Borst v Borst (1952) 41 Wash 2d 642, 251 P2d 149 | | | | | | | | | | | | X | |
| Wisconsin | | Goller v White (1963) 20 Wis 2d 402, 122 NW 2d 193 | | | | | | | | | | | | | |
| Wyoming | Oldman v Bartshe (1971 Wyo) 480 P2d 99 | | | | | | | | | | | | | | |
| West Virginia | Securo v Securo (1931) 110 W Va 1 156 SE 750 | | X | | | | | X | X | | | | X | | |

# TREND SUMMARY

## Chapter 3: Removing the Disabilities of Minority

This Chapter deals with one trend specifically and another by inference. The inference is that over the last ten years in particular, there has been, either consciously or unconsciously, an erosion of parental control. For example, the changing of the age of majority from 21 to 18 has removed the child from the control of the parents and allows the child full emancipation for all purposes upon reaching that age. Legislative and case law development of limited or partial emancipation likewise has continued this erosion of parental care, custody and control. Another relevant example here is the age at which minors can give their consent, without parental approval, for medical care, pregnancy and abortion matters.

The era of change insofar as the age of majority is concerned appears to be at an end. Since enactment of the 26th Amendment, nearly all States have set the age of majority at either 18 or 19. However, the most significant change outside of the lowering of age of majority has been in the equal application of the age criterion. That is to say, cases like Reed v. Reed and Stanton v. Stanton have begun to require age oriented statutes to be equal in application. Thus, prior to recent protection decisions in this area (which prohibited disparities between male and female marriagable ages) eighteen states had equal requirements. Subsequent to the Supreme Court decision in this area, nearly every state developed statutes with a minimum age without consent at age eighteen (18) applicable equally to both sexes.

Age, specifically when it relates to emancipation, is basically outside the purview of the U.S. Supreme Court. Thus, any changes in these areas for the 80's appear to be minimal, at best, since few States are considering changing the age of majority or the age of limited emancipation.

## CHAPTER 3

# REMOVING THE DISABILITIES OF MINORITY: ABOUT EMANCIPATION, PARTIAL OR COMPLETE

Children, their parents, and those dealing with children will need to know under what circumstances some or all of the disabilities of minority will be removed from the child. When will the child be free of parental control, able to transact business on his own, or free to enjoy other of the rights and responsibilities that are now reserved for adulthood?

The word "emancipate" is sometimes used to describe the removal of disabilities and the conferral of rights. In general terms, an emancipated child is one who has, with consent of his parent and/or the state, become his own decision-maker for some purposes; the child might have reached a specified age or have established a life independent of his parents through marriage, military service or economic self-sufficiency. This chapter is an attempt to unravel the many strands of the doctrine of emancipation in order to clarify when and for what purposes a child might be considered emancipated.

In its most common usage, "emancipation" describes the situation in which a child moves from a dependent position on his parents to economic self-sufficiency. The parent relinquishes his rights to receive the child's services and earnings and to make decisions for the child. Parents are then relieved of the obligations to support, educate and care for the child. The term is derived from Roman law rather than from the English common law. "Emancipation" meant:

> ...the enfranchisement of a son by his father, and was anciently done by the formality of an imaginary sale. (This procedure was analogous to the father's selling his son, the father's right to his son's services until the son reached the age of 21 and the son's buying the right to keep whatever the son earned until the son reached that age.) This was abolished by [the Roman Emperor] Justinian who substituted the similar proceeding of manumission before a magistrate.[1]

In the United States today, the conduct of the parent and child is still an important consideration in emancipation decisions. Official recognition or approval, as with Justinian's magistrates, is also necessary to protect the interests of the parent and child, and others dealing with the parent or child. State involvement has usually taken the form of judicial assessment of the child's status. The state might also become involved (and has increasingly) by legislating to remove disabilities or by authorizing its courts to declare individual children free of some or all of the disabilities of minority while leaving intact other aspects of the parent-child relationship. There are three primary avenues for "emancipating" children in the United States:

---

[1] Black's Law Dictionary 613 (4th ed. 1968).

1) By operation of law;

2) By judicial recognition of parent-child conduct which frees the child to some extent from the care, custody and control of the parent; and

3) By judicial declaration of emancipation as authorized by the legislature.

## 1. Operation of Law

Disabilities of minority are removed by operation of law when a child meets any one of a number of requirements set out in advance by case law or statute in his jurisdiction. (See Table 3A.) The child might reach the age of majority, enter into a valid marriage, enlist for active duty with the military, or meet the criteria of a statute which the legislature has enacted to confer certain of the rights of majority on those below the general age of majority.

If the child meets any one of these requirements, conferral of the rights of majority is automatic; no further parental or state action is necessary. In the case of age of majority, marriage or military service, the minor will be emancipated for most purposes. In the case of statutes enacted to cover certain situations (for example, consent to medical treatment) the emancipation will be partial. The child will be relieved from parental control over his decisionmaking in one area only; only that disability addressed in the statute will be removed.

### Age of Majority

When a child reaches the age of majority, he becomes an adult. The disabilities of minority are automatically removed and the new adult is entitled to manage his own affairs and to enjoy the rights, privileges and responsibilities of adulthood in his community. Emancipation of the minor is complete. All disabilities in his dealings with his family and many disabilities in dealing with third parties or conducting himself in the community will be removed. Though some jurisdictions selectively withhold legal equality in some activities by requiring an age older than that of the age of majority for participation in the activity, these peripheral disabilities are few. See, for example, Table 5D on age requirements for purchasing alcohol.

At common law, a child achieved majority at the beginning of the day before his 21st birthday. For many years 21 was the age preferred by jurisdictions which enacted general age of majority provisions. In the last ten years there has been a flurry of legislative activity which has changed the picture. In 1973, the Twenty-sixth Amendment to the Constitution was enacted, giving those as young as 18 the right to qualify to vote in national elections. The movement to recognize the maturity and capability of those in the 18 to 21 year old group was responsible for the Twenty-sixth Amendment and, in turn, received impetus from that amendment. Although the amendment spoke only to voting and did not mandate 18 as the appropriate age for obtaining privileges of adulthood, many states did reconsider their general age of majority statutes during this period. By 1980 all but five states and Puerto Rico had set 18 as the age of majority. (See Table 3A.) Alaska, Alabama, Nebraska, and Wyoming set the age at 19; Puerto Rico at 21. Mississippi does not set a general age.

A question of interest to older children arose in those states which reduced the age of majority to 18: what effect does the statutory change have on pre-existing support obligations which were defined in terms of majority rather than by stating that support was to continue to a specified age? Jurisdictions which have considered this have generally said that there will be no retroactive effect.[2] The courts hold that "majority" in those agreements means the age of majority at the time of the agreement.

For many years it was common to set a lower age of majority for females than for males. The distinction was based on the females' earlier maturity and on increasingly outmoded conceptions that the proper role of the female was in the home rather than in the marketplace and that the female frequently did not need parental support and care during an extended period of education. The United States Supreme Court in Reed v. Reed[3] stated that the statutory classifications that distinguish between males and females were subject to scrutiny under the Equal Protection clause. Scrutinizing a differential age of majority statute in Utah in 1974,[4] the court found that the statute denied equal protection of the law to a female between the age of 18 and 21 who was seeking continuation of a support order until she reached 21. The few states that still had age differentials in their general age of majority statutes in 1974 made the statutes sex-neutral following Stanton.[5]

## Marriage

In almost all jurisdictions, a minor becomes emancipated when he enters into a valid marriage. (See Table 3B.) The marriage gives rise to a new status that is inconsistent with the dependent position that results from subjecting the minor to the parents' care and control. The marriage also gives rise to new obligations which require that the minor be able to transact business. Minors who marry will, in most jurisdictions, therefore, become completely emancipated from their parents and may, by case law or statute, be relieved of some disabilities dealing with third parties. They will have most of the rights of one who has reached the age of majority. They will not obtain the right to participate in activities that specifically require the attainment of a certain age.[6] In some jurisdictions, the minor will be considered emancipated only during marriage; he will revert to the status of unemancipated minor at divorce or death of the spouse unless he is otherwise emancipated.[7]

---

[2] See, e.g., Daughtery v. Daughtery, 308 S.2d 24 (Fla. 1975).

[3] 404 U.S. 71 75 (1971).

[4] "The period of minority extends to males to the age of twenty-one years and in females to that of eighteen years...." Utah Code Ann. Sec. 15-2-1 (1953), considered in Stanton v. Stanton, 421 U.S. 7 (1975).

[5] For a consideration of age differentials in other statutes which set minimun ages for participating in activities, see note 8 infra. and accompanying text.

Minors will want to know for each jurisdiction: (1) under what conditions a minor may enter into a valid marriage, (2) whether by the marriage, the minor becomes emancipated and (3) whether emancipation ends with the end of the marital relationship.

Age: Marriage is a contract between two people. At common law, even though a minor did not have capacity to enter other contracts, a male could contract to marry at 14 and a female at 12. Today, statutes in each jurisdiction set both the minimum age at which one can marry without parental consent and the minimum age at which one can marry with parental consent. (See Table 3B.) In most jurisdictions until recently, the age of consent both with and without parental permission was lower for females than for males. Reed v. Reed and Stanton v. Stanton[8] have had an impact here as in the age of majority cases; most jurisdictions are moving to sex-neutral standards. The result is that for both males and females the age of consent without parental permission is now the same as the age of majority in all but six jurisdictions. In five jurisdictions the age of consent for males is the same as the age of majority; that for females is two years lower. In the remaining jurisdiction, Florida, the age of consent is 21 though the age of majority is 18.

The age of consent with parental permission is typically two or three years below the age of majority. (See Table 3B.) The youngest age is 14 years in Alabama, South Carolina, Texas, Utah and the Virgin Islands. In several jurisdictions statutes set out special circumstances in which a court can permit minors to marry even though they are younger than the minimum statutory age for marriage without parental consent. A typical justifying circumstance is that the minor is pregnant or has a child.

---

[6] See Chapter 5, Tables 5A-5I, and Chapter 9, Table 9C, infra. for a discussion of age-based lines for participating in activities.

[7] See sections on judicial recognition and judicial declaration of emancipation, infra. at pp. 8-11.

[8] See also Craig v. Boren, 429 U.S. 190 (1976) in which the Supreme Court struck down as violative of equal protection an Oklahoma Statute which prohibited the sale of 3.2 beer to males below the age of 21 but to females below the age of 18. This age-based statute was enacted at the same time that Oklahoma made its general age of majority statute sex-neutral. The Court stated that there was not the substantial relationship to an important government interest which was necessary to keep a gender-based discrimination from being violative of equal protection.

Emancipation: In 44 states, minors who enter a valid marriage are considered completely or partially emancipated. By statute in 11 states the minor remains emancipated even if the marriage ends. (See Tables 3A, 3C.) In most states a marriage entered into by minors below the statutory age of consent is void--invalid from its inception. In other states the marriage is voidable--valid until challenged. It is possible that a voidable marriage emancipates the minor until annulled.[9]

## Military Service

Enlistment for active duty with a branch of the armed forces emancipates a minor. In many jurisdictions this emancipation only lasts during the period of actual service. An Illinois court, for example, stated:

> When a minor enlists in the military service of this country, he ceases to be a part of his father's family, and puts himself under the control of the government, and is consequently emancipated so long as this service continues.[10]

A minor may enlist in a branch of the United States armed forces only if he is 17 and has parental consent. For these 17 year olds, emancipation will be complete.

## Selective Emancipation Statutes

While recognizing that the child's interest is best served by the state supporting parental decisionmaking for the child, legislatures have determined that in some areas an older child is an equally appropriate decisionmaker for himself. Legislatures have determined that, as a class, children who reach the designated ages are entitled to make decisions about some personal matters without having to obtain parental consent and without having to prove in a judicial proceeding that they are individually competent. This is quite different from saying children may obtain some rights of majority if their parents consent to conduct which emancipates the child. These statutes, though not discarding the basic presumption of incapacity of minors, recognize that older children have needs that may not be protected by across-the-board support of parental decisionmaking.

---

[9] For a decision in which the marriage only temporarily emancipated the minor, see Kirby v. Gilliam, 182 Va. 111, 28 S.E.2d 40 (1943).

[10] Iroquois Iron Co. v. Industrial Comm'n, 294 111. 106, 109, 128 N.E. 289, 290 (1920). See Annot., 137 A.L.R. 1467, 1490 (1942).

The majority of partial emancipation statutes deal with the right to obtain some types of medical treatment. The medical consent statutes are discussed in detail in Chapter 4 and presented in Tables 4A, 4B, 4C, 4D, and 4E.

In some areas, such as consent to treatment for venereal disease, states commonly set an age of consent that is lower than the age of majority. Statutes allowing minors to consent generally to medical and surgical treatment are rarely phrased in terms of age. Only four states allow minors below the age of majority to consent to any medical or surgical treatment. Statutes in other jurisdictions allow married or otherwise emancipated minors to consent to treatment. These statutes also frequently include minors who are pregnant or who are parents.

Another area of activity concerns minors' inability to contract; older minors have been authorized to make binding (not subject to disaffirmance) contracts in a few specific situations. Many jurisdictions have statutes that reflect the common law exception to the incapacity of a minor to consent. They allow minors to contract for necessities. Other types of binding contracts which minors above a certain age may be allowed to enter are insurance, employment, educational loans and medical care. (See Table 3E for details.)

These statutes are useful for older children living away from home without parental permission. Unfortunately, legislative activity has been piecemeal, addressed to narrow aspects in only a few areas of concern to older minors.[11]

Removal of a disability by an appropriate statute does not usually affect the other disabilities of minority. Sometimes, however, in order to insure that the minor is able to enjoy the right conferred by statute, other disabilities must be removed. In a California case, the petitioner was a college student who was below the age of majority but who was old enough to vote. The registrar refused to register the student on the grounds that the student did not "reside" locally. His legal residence was where his parents lived. The court ordered the official to register the student, stating that "when given the vote in his own right, without regard to consent of parents, he [the student] is necessarily emancipated for all purposes related to voting."[12]

### 2. Judicial Recognition

Sometimes an older child is capable of living on his own and supporting himself. If, with his parents' permission, he moves out of his parents' home or lives as independently as an adult while remaining in his parents' home, he may be considered emancipated. The child will be relieved of some or all of those disabilities which flow from the reciprocal obligations of the parent-child relationship;[13] disabilities may be selectively removed, that is the child may be deemed emancipated for some purposes and not for others. Courts are often asked to review the conduct of the parent and child after the fact to determine if, and for what purposes, the child has been emancipated.

---

[11] See also Table 3B infra. on marriage and Table 5I infra. on voting for examples of legislation in other areas.

[12] Jolicoeur v. Mihaly, 5 Cal. 3d 565, 488 P.2d 1, 96 Cal. Rptr. 697 (1971).

[13] The emancipated minor will also be relieved of some disabilities by statute. See, e.g., Chapter 4, Table 4A, infra.

In most cases, the court will not find that the minor has been emancipated unless the parent (parents) with the obligation of support has consented to emancipating conduct of the child.[14] Consent may be express or may be implied from conduct of the parent which clearly indicates his intent to release his rights in the child.

Consent will be implied from acquiescence: failure to object or to take some action to reassert control over a child who is attempting to live independently. A "fictional implied consent" may be found when a parent has abandoned a child or forced him to leave.[15]

In some cases, those in which the courts have felt minors would be protected by the decisions, courts have looked at the minor's conduct. Older minors might be found to be emancipated without regard to parental wishes for purposes of obtaining benefits (welfare, educational) in their new states of residence. Other cases have arisen in the context of support obligation disputes. A daughter who wanted to resume her education was able to return to the status of unemancipated minor for purposes of receiving support from her parent, even though the parent objected.[16] On the other hand, in Roe v. Doe,[17] a court ruled that a child had emancipated herself in the sense of having forfeited the right to receive parental support. She was living away from home in a manner not approved of by her parent, in an apartment, not a dorm.

A minor will not, however, be able to free himself from the disabilities of the parent-child relationship by running away and setting up an independent household. As a New York court stated recently, it is still generally true that "emancipation must be accomplished by some act of the parent, not the child."[18] In determining whether a child has been emancipated a court will look for both emancipating conduct on the child's part and consent on the parent's part; a court will, therefore, look closely at parent-child interactions during the time the minor was alleged to have been emancipated.

Among the most frequently considered factors are: whether the child is living at home, whether the child is paying room and board if living at home, whether the parents are exercising disciplinary control over the minor, whether the child is independently employed, whether the child has been given the right to retain wages and spend them without parental restraint, whether the child is responsible for debts incurred and the extent of the parents' contribution toward the payment of outstanding bills, whether the child owns a major commodity, such as a car, and whether the parent has listed the child as a dependent for tax purposes. Age, of course, is also a critical element. None of these factors, however, is conclusive.[19]

---

[14] 59 Am.Jr.2d Parent and Child sec's. 93, 95 (1971).

[15] See, e.g., Mahita v. Moore, 197 Md. 61, 77 A.2d 926 (1951).

[16] Turner v. Turner, 441 S.W.2d 105 (Ky. 1969).

[17] 29 N.Y.2d 188, 272 N.E.2d 567 (1971), 324 N.Y.S.2d 71.

[18] Sevrie v. Sevrie, 90 Misc. 2d 321, 394 N.Y.S.2d 389 (1977).

Perhaps the most important consideration is the context in which the claim that the child is emancipated is raised. The defense of emancipation might be asserted by a parent who is being sued by a creditor who wants to reach the child's earnings.[20] It might be asserted by a parent who is being sued by a vendor who has provided necessary services[21] to a minor child but has not been paid by the child. Parents might sue employers of their minor children for the wages the children earned. Parents might sue someone who has injured the child for damages which reflect the child's loss of earnings or earning power. If a child sues his parents for negligence, the parent might claim that the suit is barred because an unemancipated child cannot maintain a negligence action against his parent.[22] If a child sues to enforce a parent's obligation of support, the parent might claim that the child has been emancipated and that the obligation to support has thus been terminated.

The legal setting in which the claim is raised is important for three reasons. First, the court's attitude about the substantive issue involved can influence its decision about whether the child is emancipated. For example, a court which is uncomfortable with the concept of parent-child immunity but not yet ready to abrogate it, will find emancipation on very skimpy evidence. Second, where a decision on the substantive issue in the plaintiff's favor will benefit the minor, the court will be more likely to find that the minor is unemancipated so that a defense of emancipation may not be raised. For example, in a support case a decision against emancipation means that the minor will continue to receive support. Finally, the legal setting of the case, the rights or obligations involved, will determine the extent of emancipation if the minor is found to be emancipated. For example, in a suit against an employer, a minor might be found to be emancipated only for purposes of keeping his own wages. Where emancipation is through recognition by the court of emancipating activities of parent and child it will usually be partial; what disabilities of minority will be removed will depend on the context in which the question of emancipation is raised.

Precisely because the legal setting is so important it is difficult to predict in advance which activities might constitute emancipation. The same court faced with the same conduct will one day find emancipation and the next find lack of emancipation. There has been a movement to set out by statute a procedure by which courts may declare that minors are emancipated.

---

[19] Katz, Schroeder & Sidman, Emancipating Our Children: Coming of Age in America, 7 Fam. L. Q. 218 (1977).

[20] See Chapter 2 supra.

[21] Id.

[22] Id.

### 3. Judicial Declaration

Eighteen states have enacted statutes which allow the court to declare that a minor is emancipated. These statutes were enacted to clarify the requirements for emancipation, to enumerate the consequences of emancipation, and to establish procedures so that parents and/or minors can petition the court for a declaration (rather than an after the fact review) of the status of the child. The advantage of court declaration of emancipation is that it eliminates uncertainty in future interaction. The family knows of the child's emancipation. Many statutes require issuance of an identification paper by which the minor can make his status known to those in the community with whom he might have business dealings.[23]

The features of the judicial declaration of emancipation statutes are charted in Table 3A. There is no general pattern to these statutes. The greatest differences are in the effects of granting the petition for emancipation. A decree may be for the partial removal of the disability of the minor to enable him to do some particular act; or it may be general to empower him to do all acts which the minor could do had he reached the age of majority.

Four statutes follow the general pattern of relieving the minor of "disabilities of nonage" or of granting the minor the "rights of majority." The statutes usually detail what these rights are. The Alabama statute, for example, says that the court may relieve the minor of the disabilities of nonage and enter a judgment "...which shall have the effect of investing such minor with the right to sue and be sued, to contract, to buy, sell and convey real estate, and generally to do and perform all acts which such minor could lawfully do if 19 years of age,...."[24] Some statutes are extensive in their listings. California sets out 11 purposes for which the minor will be considered emancipated.

Some statutes emancipate the child for limited purposes. In Michigan, for example, emancipation serves to terminate right of the power to the custody, control, services and earnings of the minor. In Mississippi a minor may be relieved of disabilities with reference to a piece of real estate owned by the minor; he will be allowed to sell, convey, mortgage, lease or make deeds of trust and contract. In Oklahoma minors may be empowered to "transact business in general or any business specified." In many jurisdictions, both those with broad and those with specific effects, the courts can limit the effect of the decree.

The age at which a minor can petition for declaration of emancipation varies from state to state. Nine states set 16 as the minimum age, four states set no age, and two states set varying ages according to the circumstances of the emancipation. Puerto Rico and the Virgin Islands set the minimum age at 18. Alabama states the minor must be over 18; because the age of majority is 19 in Alabama this statute perhaps operates to emancipate only those minors who have passed their 18th birthday.

---

[23] Under the Oregon statute, for example, the Department of Motor Vehicles must issue an identification card. Or. Rev. Stat sec. 482.905 (1979).

[24] Ala. Code sec. 26-13-5 (1977).

In several states the minor himself may petition; in other states he may petition through a "next friend" appointed by the court. In eight jurisdictions there must be notice to the parent. In some jurisdictions the parent must either verify the petition or be joined as a party defendant. Six jurisdictions specifically require parental consent for the minor to be declared emancipated. Given the almost universal requirement of parental consent in emancipation based on conduct of parent and child, the fact that any jurisdictions allow declaration of emancipation without parental consent is interesting. It may be an indication that states are willing to have courts take a more active role in assessing the ability of older children to function independently of their parents, especially if the effect of the decree will only be partial removal of the disabilities of minority.

The states, mindful of the lack of predictability in judicial recognition of emancipation, have endeavored to set up standards for the declaration of emancipation. Most jurisdictions use the general best interests of the minor test, but try to give some guidance by listing factors the courts should take into consideration. Basically these are factors we have seen before. Is the child living alone? Self-supporting? Managing own affairs? Married or divorced? Does he have parental consent or at least acquiescence to his conduct?

To some extent, then, the value of these statutes is just in the provision of a forum for the declaration of the minor's status before a question arises involving the rights of a third party. In some states the declaration statutes are enacted in lieu of statutes which might declare that as a matter of law the minor of a specific age can contract in specified situations; they allow for individualized determinations. In these states, the provision of a forum for these determinations rather than the enactment of an across-the-board provision is a burden on minors. Finally, in those states where the effects of a declaration are broad, where parental consent is not required, and where the minor may petition the court without a lot of red tape and expense, declaration of emancipation statutes represent a real step in the direction of recognizing the increasing abilities of an older child to manage his own affairs.

The general emancipation statutes have been criticized by some commentators. The Standards Relating to the Rights of Minors Committee for IJA/ABA Juvenile Justice Standard Project had this to say:

> [E]mancipation decisions should not be made by reference to a legislatively authorized judicial decree of emancipation ....Indeed, such statutes should be repealed. Their presence permits the legislatures to ignore the often difficult issues of substantive law which the emancipation doctrine supposedly resolves; most minors who establish and maintain economic and other relationships outside their immediate families are not likely to know about or to be advised to

> seek judicial emancipation; the cost of such a legal proceeding, however minimal in some cases, should not be imposed as a matter of course on minors who want (or whose parents want for them) some measure of autonomy; and the inevitable generality and vagueness of the substantive standard for judicial emancipation...(either by statutory language or judicial interpretation, the standard will become "the best interests of the minor") will provide judges with a degree of discretion in influencing family behavior which is inconsistent with the family privacy principle.[25]

Another way that minors have been coming to courts for a declaration of emancipation from parental care, custody and control is through the juvenile court neglect or incorrigibility statutes.[26] Though it is a fiction to say that parents consent to children's emancipation when parents behave outrageously to children, it does not seem surprising that parents should lose their rights with respect to their minor children if they endanger them and if the children therefore want to live elsewhere. If parents abandon or seriously abuse their children their parental rights can be terminated. If they neglect or abuse their children they can lose custody and control of them temporarily. The difficult problems are: (1) Should children be able to be freed of their parents' custody and control if the children are merely unhappy and not endangered? and (2) If children are freed of parental control should they ever be allowed to live alone rather than with a foster family or in a group care home?

Recently, a court allowed an older child (16) to live in a foster home because she disagreed with the rules and regulations her parents set for her. In In re Snyder[27] the court found that the parents had not neglected or abused their child. By declaring that the child was incorrigible--beyond her parents' control--the court obtained jurisdiction over the child so that it could place her out of her home.

Although Snyder is the only appellate case dealing with this type of emancipation, the practice of using incorrigibility or neglect petitions to free children from parental control where the parents and children are in conflict over decisionmaking exists in other jurisdictions. It is true that children thus placed are not free of all adult control. In some instances, however, older children may be put in group homes where they have a good deal of freedom.

It has also been suggested that older children able to support themselves might be allowed to live alone. They would be declared self-sufficient by the juvenile court so that they could move out of their parents' homes. The new Indiana juvenile law allows the juvenile court to order emancipation as a disposition in delinquency, incorrigibility or neglect cases. Section 31-6-4-16(e) (15) allows the court to:

---

[25] IJA/ABA, Juvenile Justice Standards Project, Rights to Minors, 33 (1975).

[26] See Chapter 6 infra.

[27] 85 Wash. 2d 182, 532 P.2d 278 (1975).

> Partially or completely emancipate the child if it finds that the child:
>
> (A) Wishes to be free from parental control and protection and no longer needs that control and protection;
> (B) Is receiving sufficient income (exclusive of any parental support or public assistance) to support himself, or is a parent receiving aid to families with dependent children;
> (C) Understands the consequences of being free from parental control and protection; and
> (D) Has an acceptable plan for independent living.
>
> Whenever the juvenile court partially or completely emancipates the child, it shall specify the terms of the emancipation, which may include:
>
> (1) Suspension of the parent's duty to support his child, in which case, the judgment of emancipation supersedes the support order of any court;
> (2) Suspension of the parent's right to the control or custody of his child and suspension of the parent's right to his child's earnings;
> (3) Empowering the child to consent to marriage;
> (4) Empowering the child to consent to military enlistment;
> (5) Empowering the child to consent to medical, psychological, psychiatric, educational, or social services; and
> (6) Empowering the child to contract.
>
> An emancipated child remains subject to the compulsory school attendance law and to the continuing jurisdiction of the court.

The juvenile court in Maine[28] also has the power to emancipate runaways who are 16 or older. If the child refuses to return home and the child's guardian agrees to permit the child to remain away from home counsel for the juvenile may petition for emancipation. The court will order emancipation if it "finds that the juvenile is sufficiently mature to assume responsibility for his own care and that it is in the juvenile's best interest for him to do so." The Maine statute is interesting in that it requires the minor to present a detailed plan for self-sufficiency to the court.

> 2. Plan for care. Before the court grants a petition for emancipation it must review and approve the juvenile's plans for room, board, health care and education, vocational training or employment. The plan must identify the

---

[28] Ms. Rev. Stat. Ann. tit. 15, sec. 3506(2) (1980).

community resources and agencies necessary to assist in the juvenile's emancipated life and must demonstrate that these agencies have agreed to provide such support.[29]

---

[29] Id.

## TABLE 3A

## OBTAINING RIGHTS OF MAJORITY

| STATE | AGE OF MAJORITY | BY MARRYING NOTE 1 | SELECTIVE STATUTES | | | GENERAL EMANCI-PATION STATUTES NOTE 5 |
|---|---|---|---|---|---|---|
| | | | GENERAL MEDICAL CONSENT NOTE 2 | CONTRACT CAPACITY NOTE 3 | SPECIAL MEDICAL CONSENT NOTE 4 | |
| Alabama | 19 | X | X | X | X | X |
| Alaska | 19 | X | X | | X | X |
| Arizona | 18 | X | X | X | X | |
| Arkansas | 18 | | X | X | X | X |
| California | 18 | X | X | X | X | X |
| Colorado | 18 | X | X | X | X | |
| Connecticut | 18 | X | X | X | X | |
| Delaware | 18 | | X | X | X | |
| District of Columbia | 18 | X | | X | X | |
| Florida | 18 | X | X | X | X | |
| Georgia | 18 | X | | X | X | |
| Guam | 18 | X | X | X | X | |
| Hawaii | 18 | X | | X | X | |
| Idaho | 18 | X | | X | X | |
| Illinois | 18 | X | X | X | X | |
| Indiana | 18 | | X | X | X | |
| Iowa | 18 | X | | X | X | |
| Kansas | 18 | X | X | X | X | X |
| Kentucky | 18 | | X | X | X | |
| Louisiana | 18 | X | X | X | X | X |
| Maine | 18 | X | | X | X | |
| Maryland | 18 | | X | X | X | |
| Massachusetts | 18 | X | X | X | X | |
| Michigan | 18 | X | | X | X | X |
| Minnesota | 18 | X | X | | X | |
| Mississippi | varies | X | X | X | X | X |
| Missouri | 18 | X | X | X | X | |

NOTES:

1) See detail Table 3C. Emancipation may be total or for specific purpose
2) See detail Table 4A
3) See detail Table 3D
4) See detail Tables 4B, 4C, 4D, 4E
5) See detail Table 3E

## TABLE 3A

## OBTAINING RIGHTS OF MAJORITY

| STATE | AGE OF MAJORITY | BY MARRYING NOTE 1 | SELECTIVE STATUTES | | | GENERAL EMANCI-PATION STATUTES NOTE 5 |
|---|---|---|---|---|---|---|
| | | | GENERAL MEDICAL CONSENT NOTE 2 | CONTRACT CAPACITY NOTE 3 | SPECIAL MEDICAL CONSENT NOTE 4 | |
| Montana | 18 | X | X | X | X | |
| Nebraska | 19 | X | | X | X | |
| Nevada | 18 | | X | X | X | |
| New Hampshire | 18 | X | | X | X | |
| New Jersey | 18 | X | X | X | X | |
| New Mexico | 18 | | X | X | X | |
| New York | 18 | X | X | X | X | X |
| North Carolina | 18 | X | .X | X | X | |
| North Dakota | 18 | X | | X | X | X |
| Ohio | 18 | X | | X | X | X |
| Oklahoma | 18 | X | X | X | X | X |
| Oregon | 18 | X | | X | X | |
| Pennsylvania | 18 | | X | X | X | X |
| Puerto Rico | 21 | X | | X | X | |
| Rhode Island | 18 | | X | X | X | |
| South Carolina | 18 | X | X | X | X | X |
| South Dakota | 18 | X | | X | X | X |
| Tennessee | 18 | X | | X | X | X |
| Texas | 18 | X | X | X | X | |
| Utah | 18 | X | | X | X | |
| Vermont | 18 | X | | X | X | X |
| Virgin Islands | 18 | X | X | X | X | |
| Virginia | 18 | X | X | X | X | |
| Washington | 18 | X | X | X | X | X |
| West Virginia | 18 | X | | X | X | |
| Wisconsin | 18 | X | | X | X | |
| Wyoming | 18 | | | X | X | |

NOTES:

1) See detail Table 3C. Emancipation may be total or for specific purpose
2) See detail Table 4A
3) See detail Table 3D
4) See detail Tables 4B, 4C, 4D, 4E
5) See detail Table 3E

pages tightly bound

TABLE 3B

CONSENT REQUIREMENTS FOR MARRIAGE

| STATE | AGE AT WHICH CAN MARRY WITHOUT PARENTAL CONSENT | AGE AT WHICH CAN MARRY WITH PARENTAL CONSENT | PARENTAL CONSENT REQUIREMENT WAIVED IF | AGE AT WHICH PARENTAL AND JUDICIAL CONSENT NECESSARY | SPECIAL PROVISIONS |
|---|---|---|---|---|---|
| Alabama | 18 | 14 | | | |
| Alaska | 18 | 16 | Note a | 14-16 | |
| Arizona | 18 | 16 | | Under 16 | |
| Arkansas | M-21<br>F-18 | M-17<br>F-16 | Minor in Military | | Court allows if: pregnant and parent consents and it is in best interests of parties. |
| California | 18 | | | Under 18 | |
| Colorado | 18 | 16 | Note b | Under 16 | Pregnancy not enough to show marriage is in best interests. |
| Connecticut | 18 | 16 | No p Resident in US-court can consent | Under 16 | |
| Delaware | 18 | F-16 | No parent, parent refuses court may consent. | | If on probation or parole, need court consent. Age limitation inapplicable if pregnant. |
| District of Columbia | 18 | 16 | | | |
| Florida | 18 | 16 | Parent deceased | | If pregnant, court may allow under 16 |
| Georgia | 18 | F-16 | Minor pregnant | | |
| Guam | 18 | 16 | | F 14-16 | |
| Hawaii* | 18 | 16 | | | If under jurisdiction of family court need court consent |

NOTES:

a) Court may authorize if parents arbitrarily or capriciously withhold consent, or are absent, or are in disagreement or are unfit to decide and marriage is in child's best interest.

b) Court may authorize if child is 16 or 17, no parent is capable of consenting or parent has refused to consent and child is capable of assuming responsibilities and marriage would serve best interests of parties.

TABLE 3B

CONSENT REQUIREMENTS FOR MARRIAGE

| STATE | AGE AT WHICH CAN MARRY WITHOUT PARENTAL CONSENT | AGE AT WHICH CAN MARRY WITH PARENTAL CONSENT | PARENTAL CONSENT REQUIREMENT WAIVED IF | AGE AT WHICH PARENTAL AND JUDICIAL CONSENT NECESSARY | SPECIAL PROVISIONS |
|---|---|---|---|---|---|
| Idaho | 18 | 16 | | Under 16 | Pregnancy not enough to establish best interests |
| Illinois | 18 | 16 | No parent capable, parent refuses to consent, court may | | |
| Indiana | 18 | 17 | Show good cause at hearing | | Court allows if: 15, pregnant, and parental consent |
| Iowa | 18 | 16 | Note c | | In court's discretion if under 16 and pregnant |
| Kansas | 18 | Under 18 | No parent; court consent | | |
| Kentucky | 18 | Under 18 | Cohabits pregnant court may consent | | |
| Louisiana | M-18<br>F-16 | | | | Court may allow if: parents consent, and extraordinary circumstances |

NOTES:

c) Court may authorize if child is 16 or 17, parents are dead, incompetent, cannot be located, unreasonably withhold consent, and child is capable of assuming responsibilities and marriage is in best interests.

(continued)

## TABLE 3B

## CONSENT REQUIREMENTS FOR MARRIAGE

| STATE | AGE AT WHICH CAN MARRY WITHOUT PARENTAL CONSENT | AGE AT WHICH CAN MARRY WITH PARENTAL CONSENT | PARENTAL CONSENT REQUIREMENT WAIVED IF | AGE AT WHICH PARENTAL AND JUDICIAL CONSENT NECESSARY | SPECIAL PROVISIONS |
|---|---|---|---|---|---|
| Maine | 18 | 16 | | Under 16 | |
| Maryland | 18 | 16 | Pregnant | | Under 16 can marry if: pregnant, parents consent |
| Massachusetts | 18 | | Incapable or not located | Under 18 | |
| Michigan | 18 | F-16 | Incompetent or cannot be located | | Court may allow if: pregnant or lived with man as wife, parents consent |
| Minnesota | 18 | | | F-16 | |
| Mississippi | 21 | Under 21 | | M-17<br>F-15 | |
| Missouri | 18 | 15 | | Under 15 | |
| Montana | 18 | 17 | No parent capable, court consents | 16 | Pregnancy not establish best interests |
| Nebraska | 18 | 17 | | | |
| Nevada | 18 | 16 | | Under 16 | Pregnancy not establish best interests |
| New Hampshire | 18 | | | M-14<br>F-13 | |
| New Jersey | 18 | 16 | Unsound mind | Under 16 | |
| New Mexico | 18 | 16 | | Under 16 | Note d |
| New York | 18 | 16 | | F14-16 | |

NOTES:

d) If under 16 court may authorize if pregnant or if is settlement of support/parentage proceedings.

(continued)

TABLE 3B

## CONSENT REQUIREMENTS FOR MARRIAGE

| STATE | AGE AT WHICH CAN MARRY WITHOUT PARENTAL CONSENT | AGE AT WHICH CAN MARRY WITH PARENTAL CONSENT | PARENTAL CONSENT REQUIREMENT WAIVED IF | AGE AT WHICH PARENTAL AND JUDICIAL CONSENT NECESSARY | SPECIAL PROVISIONS |
|---|---|---|---|---|---|
| North Carolina | 18 | 16 | | | Court allow if: 12, pregnant and parental consent |
| North Dakota | 18 | 16 | | | Court consent needed if minor under court supervision |
| Ohio | 18 | | Note e | Under 18 | |
| Oklahoma | 18 | 16 | Deceased, incompetent, cannot locate, court consent | | Court allow if: 16 or 17 and pregnant; under 16, and parental consent, and pregnant, or seduction/paternity suit |
| Oregon | 18 | Under 18 | Note f | | |
| Pennsylvania | 18 | 16 | | Under 16 | |
| Puerto Rico | 21 | M-18<br>F-16 | | | F 14-16 was seduced or M 16-18 was seducer: marriage with parental or court consent |
| Rhode Island | 18 | | | F-16 | |
| South Carolina | 18 | M-16<br>F-14 | | | Age limit inapplicable if pregnant and parental consent |
| South Dakota | 18 | 16 | | | Age limit inapplicable if pregnant and parental consent |
| Tennessee | 18 | 16 | | | |

NOTES:

e) Does not need parental consent if parent resides in foreign country, neglected or abused minor for at least one year, is incompetent, is inmate in state mental or penal institution or is permanently deprived of custody.

f) Parental consent waived if no parent resides in the state and if either party has resided in the state for six months.

TABLE 3B

CONSENT REQUIREMENTS FOR MARRIAGE

| STATE | AGE AT WHICH CAN MARRY WITHOUT PARENTAL CONSENT | AGE AT WHICH CAN MARRY WITH PARENTAL CONSENT | PARENTAL CONSENT REQUIREMENT WAIVED IF | AGE AT WHICH PARENTAL AND JUDICIAL CONSENT NECESSARY | SPECIAL PROVISIONS |
|---|---|---|---|---|---|
| Texas | 18 | 14 | Court orders | | |
| Utah | 18 | 14 | | | |
| Vermont | 18 | 16 | | Under 16 | |
| Virginia | 18 | 16 | | | Age limit inapplicable if pregnant and parental consent |
| Virgin Islands | 18 | M-16<br>F-14 | | | |
| Washington | 18 | 17 | | Under 17 | |
| West Virginia | M-18<br>F-16 | | | Under 16 and pregnant | |
| Wisconsin | 18 | 16 | | | |
| Wyoming | 19 | 16 | | Under 16 | |

(continued)

# TABLE 3C

## MARRIAGE AS EMANCIPATION OF MINOR

| STATE | BY STATUTE: TOTAL RIGHTS OF MAJORITY | BY STATUTE: PARTIAL EMANCIPATION | | | | | | REVOCABLE BY DIVORCE OR DEATH | | | NO STATUTE, CASE LAW EMANCIPATES FOR SOME PURPOSES |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | CONTRACT | SUE | REAL PROPERTY | MEDICAL* | PARENTAL CONTROL | OTHER PURPOSES | YES | NO | NOT MENTIONED | |
| Alabama | If 18 | | | | | | | | X | | |
| Alaska | X | | | | | | | | | X | |
| Arizona | | | | | X | | | | X | | X |
| Arkansas | | | | | X | | | | | X | |
| California | X | | | | | | | | X | | |
| Colorado | | | | | X | | | | | X | X |
| Connecticut | X | | | | | | | | X | | |
| Delaware | | | | | X | | | | | X | |
| District of Columbia | | | | | | | | | | | X |
| Florida | X | | | | | | | | X | | |
| Georgia | | | | | X | X | | | | X | |
| Guam | | | | | | X | | | | X | |
| Hawaii | Note a | | | | | | | | | X | |
| Idaho | | X | X | X | | | | | X | | |
| Illinois | | | | | X | | | | | X | X |
| Indiana | | | | | X | | | | | X | |
| Iowa | X | | | | | | | | | X | |
| Kansas | | X | X | X | X | | | | | X | |
| Kentucky | | | | | X | | | | X | | |
| Louisiana | If Female | | X | | | | | | X | | |
| Maine | | | | | | | | | | | X |

* See Table 4A for detail on statutes allowing married minors to give consent to general medical, surgical, dental or hospital care.

NOTE:

a) Emancipation is total except juvenile court retains jurisdiction.

## TABLE 3C

## MARRIAGE AS EMANCIPATION OF MINOR

| STATE | BY STATUTE: TOTAL RIGHTS OF MAJORITY | BY STATUTE: PARTIAL EMANCIPATION | | | | | | REVOCABLE BY DIVORCE OR DEATH | | | NO STATUTE, CASE LAW EMANCIPATES FOR SOME PURPOSES |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | CONTRACT | SUE | REAL PROPERTY | MEDICAL* | PARENTAL CONTROL | OTHER PURPOSES | YES | NO | NOT MENTIONED | |
| Maryland | | | | X | X | | | | | X | |
| Massachusetts | | | | | X | | | | X | | X |
| Michigan | X | | | | | | | X | | | |
| Minnesota | | | | | X | | | | | X | X |
| Mississippi | | | | | X | | Note b | | | | |
| Missouri | | | | X | X | X | | | MEDICAL | X | |
| Montana | | X | | | X | X | | | MEDICAL | X | |
| Nebraska | X | | | | | | | | X | | |
| Nevada | | | | | | | | | | | |
| New Hampshire | | | | | | | | | | | X |
| New Jersey | | | | | X | | | | | X | X |
| New Mexico | | | | | X | | | | X | | |
| New York | | | | | X | | | | | X | X |
| North Carolina | X | | | | | | | | | X | |
| North Dakota | | | | | | X | | | | X | |
| Ohio | | | | | | | | | | | X |
| Oklahoma | | | | | X | X | | | | X | |
| Oregon | X | | | | | | | | | X | |
| Pennsylvania | | | | | X | | | | | X | |
| Puerto Rico | Note c | | | | | | | | | | |
| Rhode Island | | | | | X | | | | | X | |

* See Table 4A for detail on statutes allowing married minors to give consent to general medical, surgical, dental or hospital care.

NOTES:

b) For divorce action.

c) Father, or in default of father, mother, must consent for child to alienate or mortgage real property.

TABLE 3C

MARRIAGE AS EMANCIPATION OF MINOR

| STATE | BY STATUTE TOTAL RIGHTS OF MAJORITY | BY STATUTE: PARTIAL EMANCIPATION |  |  |  |  |  | REVOCABLE BY DIVORCE OR DEATH |  |  | NO STATUTE, CASE LAW EMANCIPATES FOR SOME PURPOSES |
|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  | CONTRACT | SUE | REAL PROPERTY | MEDICAL* | PARENTAL CONTROL | OTHER PURPOSES | YES | NO | NOT MENTIONED |  |
| South Carolina |  |  |  |  | X |  | Note d | X |  |  |  |
| South Dakota |  |  |  |  |  | X |  | X |  |  |  |
| Tennessee |  |  |  |  |  |  |  |  |  |  | X |
| Texas |  |  |  |  |  |  |  |  |  |  | X |
| Utah | X |  |  |  |  |  |  |  |  | X |  |
| Vermont |  |  |  |  |  |  |  |  |  |  | X |
| Virginia |  |  |  | Note e | X |  |  |  |  | X |  |
| Virgin Islands | Note f |  |  |  |  |  |  |  |  |  |  |
| Washington | X |  |  |  | X |  |  |  |  | X |  |
| West Virginia | Note g |  |  |  |  |  |  |  |  |  |  |
| Wisconsin |  |  |  |  |  |  | Note h |  |  |  | X |
| Wyoming |  |  |  |  |  |  |  |  |  |  |  |

* See Table 4A for detail on statutes allowing married minors to give consent to general medical, surgical, dental or hospital care.

NOTES:

d) For divorce action.

e) Emancipated to contract re dowry or courtesy.

f) Father, or in default of father, mother, must consent for child to alienate or mortgage real property.

g) Emancipation is total except juvenile court retains jurisdiction.

h) For "settlement" in Section 49.10.

## TABLE 3D

## SELECTIVE EMANCIPATION STATUTES COVERING MINOR'S ABILITY TO ENTER VALID CONTRACTS

| STATE | MINOR CANNOT DISAFFIRM CONTRACTS* | | | | | | MINOR VETERAN MAY NOT DISAFFIRM CONTRACTS FOR REAL ESTATE |
|---|---|---|---|---|---|---|---|
| | FOR INSURANCE | FOR LOAN FOR HIGHER EDUCATION | FOR NECESSITIES | IF MISREPRESENTS AGE | IF CONTRACTS UNDER AUTHORITY OF LAW OR STATUTE | OTHER | |
| Alabama | X | | | | | | X |
| Alaska | | | | | | | Note a |
| Arizona | | 16 | | | | | |
| Arkansas | | X | | | | Note b | X |
| California | X | | X | | | | |
| Colorado | X | | X | | | | |
| Connecticut | 15 | | | | | | |
| Delaware | 15 | | | | | | |
| District of Columbia | | X | | | | | X |
| Florida | | X | | | X | Note c | |
| Georgia | | X | | | X | | |
| Guam | | | | | | | X |
| Hawaii | 15 | X | X | | | | |
| Idaho | | | X | | X | | |
| Illinois | 15 | X | X | | | | |
| Indiana | 16 | X | | X | | | |
| Iowa | | | X | X | | | |
| Kansas | X | | | X | | | |

* Where "X" is used in a column, no minor can disaffirm the contract listed. Where an age is used in the column, minors of that age or older may not disaffirm the contract listed.

See tables 4A, 4B, 4C, 4D, 4E, and 4F for information about minor's ability to consent to and contract for medical services.

NOTES:

a) Veteran or spouse cannot disaffirm any contract by reason of minority.

b) Minor cannot disaffirm contract for artistic, creative or sports services which has been judicially approved.

c) If as minor, by permission of parents, guardian or law, practices any profession or trade, or engages in any business as an adult, he cannot disaffirm any contracts connected with such profession, trade or business.

TABLE 3D

## SELECTIVE EMANCIPATION STATUTES COVERING MINOR'S ABILITY TO ENTER VALID CONTRACTS

| STATE | MINOR CANNOT DISAFFIRM CONTRACTS* | | | | | | MINOR VETERAN MAY NOT DISAFFIRM CONTRACTS FOR REAL ESTATE |
|---|---|---|---|---|---|---|---|
| | FOR INSURANCE | FOR LOAN FOR HIGHER EDUCATION | FOR NECESSITIES | IF MISREPRESENTS AGE | IF CONTRACTS UNDER AUTHORITY OF LAW OR STATUTE | OTHER | |
| Kentucky | | X | | X | | Note d | X |
| Louisiana | X | X | X | | | Note e | |
| Maine | 15 | X | X | | | Note f | |
| Maryland | 15 | | X | | | | X |
| Massachusetts | Note g | X | X | | | | |
| Michigan | 16 | X | X | X | | | X |
| Minnesota | | | | X | | | |
| Mississippi | 15 | X | X | | | | |
| Missouri | | X | | | | | |
| Montana | | X | X | | X | | |
| Nebraska | 10 | | X | | | | |
| Nevada | X | | X | | | | |
| New Hampshire | | X | X | | | | |
| New Jersey | 15 | X | X | | | | |
| New Mexico | 15 | 16 | X | | | | |
| New York | | X | X | | | Note h | X |
| North Carolina | 15 | | X | | | Note i | |
| North Dakota | | | X | | X | | X |

* Where "X" is used in a column, no minor can disaffirm the contract listed. Where an age is used in the column, minors of that age or older may not disaffirm the contract listed.

NOTES:

d) Section 59 of the Kentucky Constitution prevents removal of disabilities of minority by local or special acts of the General Assembly.

e) A minor's stipulations in a marriage contract, if made with consent of those whose authority is required, are valid. A minor carrying on commerce or being an artisan is not "restitutable" against the engagements into which he has entered by way of his business or art.

f) A minor cannot disaffirm a contract for real estate for which he has received the title and retains the benefits. A minor may make notes and contracts which are necessary to further his educational, literary or scientific profession.

g) Minor 16 or over cannot disaffirm contract for auto related insurance. Minor 16 or over cannot disaffirm contract for life insurance.

h) Minor cannot disaffirm a contract for dramatic, musical or artistic services if it has been approved by the court.

i) Married minor cannot disaffirm transactions involving real estate.

pages tightly bound

TABLE 3D

## SELECTIVE EMANCIPATION STATUTES COVERING MINOR'S ABILITY TO ENTER VALID CONTRACTS

| STATE | MINOR CANNOT DISAFFIRM CONTRACTS* | | | | | | MINOR VETERAN MAY NOT DISAFFIRM CONTRACTS FOR REAL ESTATE |
|---|---|---|---|---|---|---|---|
| | FOR INSURANCE | FOR LOAN FOR HIGHER EDUCATION | FOR NECESSITIES | IF MISREPRESENTS AGE | IF CONTRACTS UNDER AUTHORITY OF LAW OR STATUTE | OTHER | |
| Ohio | 15 | X | X | | | | X |
| Oklahoma | X | Note k | X | | | Note j | X |
| Oregon | | X | X | | | | |
| Pennsylvania | | X | X | | | | X |
| Puerto Rico | 15 | | | | | | |
| Rhode Island | | | X | | | | |
| South Carolina | | X | X | | | | |
| South Dakota | X | | X | | | | X |
| Tennessee | | X | X | | | | |
| Texas | 14 | X | X | | | | |
| Utah | 15 | | X | X | | | |
| Vermont | | | X | | | | |
| Virgin Islands | 15 | | X | | | | |
| Virginia | 15 | X | X | Note 1 | | | |
| Washington | 15 | 16 | X | X | | | |
| West Virginia | X | | X | | | | |
| Wisconsin | | X | X | | | | |
| Wyoming | 15 | | X | | | | |

* Where "X" is used in a column, no minor can disaffirm the contract listed. Where an age is used in the column minors of that age or older may not disaffirm the contract listed.

NOTES:

j) Minor may only disaffirm a contract to repair, supply or equip a motor vehicle if he restores the consideration received.

k) May not disaffirm if had written parental approval and does not reside with parent or guardian.

1) If minor transacts business as a trader and as if he were of age, and does not notify others that he is a minor, he is legally bound for his debts as a trader.

TABLE 3E

## CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

| STATE | MINOR MUST BE AGE | RESIDENCE REQUIRED | PETITIONER | NOTICE REQUIRED TO | CONDITIONS FOR GRANTING | | | | | EFFECT OF GRANTING (SPECIFIC MENTION) | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | CHILD'S BEST INTEREST | PARENTAL CONSENT | ABILITY TO MANAGE OWN AFFAIRS | PARENTS NOT SUPPORTING | OTHER | OBTAINS RIGHTS OF MAJORITY* | CAN VALIDATE CONTRACT | CAN CONVEY PROPERTY | CAN SUE AND BE SUED | TERMINATES PARENT'S CUSTODY/CONTROL | OTHER** |
| Alabama | Over 18 | Yes | Parent; If None-Minor | County News-Paper | X | Note a | | | | X | X | X | X | | |
| Alaska | 16 | Yes | Minor | Parent | X | Note b | X | X | | | X | X | X | X | Note c |
| Arizona | | | | | | | | | | | | | | | |
| Arkansas | 16 | Or own pro-perty | Minor | Parent | | | | | | X For Resident | | X For non-resident | | | |

* Even emancipation decrees which are phrased in terms of total rights of majority do not allow the minor to participate in activities which have age-based restrictions not explicitly tied to the age of majority. Examples of this type of activity are driving a motor vehicle and purchasing alcohol. See Tables 5D and 5E.

** See Chapter 4 for discussion and listing of statutes giving minors permission to consent to medical or surgical procedures in specific circumstances (e.g., venereal disease, pregnancy, emergency).

NOTES:

a) Parents' consent not explicitly required, but parent or guardian must file petition unless insane or unless abandoned minor for one year.

b) The minor must obtain the consent of each living parent or guardian having control of the person or property of the minor. Court may waive consent requirement if parent is unavailable, his whereabouts are unknown, or he unreasonably withholds consent.

pages tightly bound

TABLE 3E

## CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

| | | | | | CONDITIONS FOR GRANTING | | | | | EFFECT OF GRANTING (SPECIFIC MENTION) | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | MINOR MUST BE AGE | RESIDENCE REQUIRED | PETITIONER | NOTICE REQUIRED TO | CHILD'S BEST INTEREST | PARENTAL CONSENT | ABILITY TO MANAGE OWN AFFAIRS | PARENTS NOT SUPPORTING | OTHER | OBTAINS RIGHTS OF MAJORITY * | CAN VALIDATE CONTRACT | CAN CONVEY PROPERTY | CAN SUE AND BE SUED | TERMINATES PARENT'S CUSTODY/CONTROL | OTHER |
| California | Note d | Yes | Minor | | X | Note e | X | | Note e | Enumerated | X | X | X | X | Note f |
| Colorado | | | | | | | | | | | | | | | |
| Connecticut | 16 | | Minor or Parent | Parent or child | | | X | | | X | X | X | X | X | |
| Delaware | | | | | | | | | | | | | | | |
| District of Columbia | | | | | | | | | | | | | | | |

* Even emancipation decrees which are phrased in terms of total rights of majority do not usually allow the minor to participate in activities which have age-based restrictions not explicitly tied to the age of majority.

NOTES:

d) Minimum age is 16 unless basis for emancipation is military service or marriage.

e) Codifies common law; will grant if minor is married, in service or living independently with parents consent or acquiescence (parental consent not required in Connecticut).

f) No longer under jurisdiction of juvenile court for incorrigibility or as dependent child. Can establish domicile, enroll in school, obtain work permit, consent to medical care without parental permission. Ends vicarious liability of parent except under vehicle code.

TABLE 3E

CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

| | | | | | CONDITIONS FOR GRANTING | | | | | EFFECT OF GRANTING (SPECIFIC MENTION) | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | MINOR MUST BE AGE | RESIDENCE REQUIRED | PETITIONER | NOTICE REQUIRED TO | CHILD'S BEST INTEREST | PARENTAL CONSENT | ABILITY TO MANAGE OWN AFFAIRS | PARENTS NOT SUPPORTING | OTHER | OBTAINS RIGHTS OF MAJORITY* | CAN VALIDATE CONTRACT | CAN CONVEY PROPERTY | CAN SUE AND BE SUED | TERMINATES PARENT'S CUSTODY/CONTROL | OTHER |
| Florida | | | | | | | | | | | | | | | |
| Georgia | | | | | | | | | | | | | | | |
| Guam | | | | | | | | | | | | | | | |
| Hawaii | | | | | | | | | | | | | | | |
| Idaho | | | | | | | | | | | | | | | |
| Illinois | | | | | | | | | | | | | | | |
| Indiana | | | | | | | | | | | | | | | |
| Iowa | | | | | | | | | | | | | | | |
| Kansas | None Stated | Yes | Minor's Next Friend | Publication | | | X | | Note g | | X | X | | | |

* Even emancipation decrees which are phrased in terms of total rights of majority do not usually allow the minor to participate in activities which have age-based restrictions not explicitly tied to the age of majority.

NOTES:

g) Must be of sound mind and able to transact business.

TABLE 3E

CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

| STATE | MINOR MUST BE AGE | RESIDENCE REQUIRED | PETITIONER | NOTICE REQUIRED TO | CONDITIONS FOR GRANTING |  |  |  |  | EFFECT OF GRANTING (SPECIFIC MENTION) |  |  |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  |  |  |  | CHILD'S BEST INTEREST | PARENTAL CONSENT | ABILITY TO MANAGE OWN AFFAIRS | PARENTS NOT SUPPORTING | OTHER | OBTAINS RIGHTS OF MAJORITY* | CAN VALIDATE CONTRACT | CAN CONVEY PROPERTY | CAN SUE AND BE SUED | TERMINATES PARENT'S CUSTODY/CONTROL | OTHER |
| Kentucky |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Louisiana | 16 | Yes | Minor Note h |  |  | X Note h | X |  |  | X |  |  |  |  |  |
| Maine |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Maryland |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Massachusetts |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Michigan | None Stated | Or Own Property | Not Stated |  | X |  | X |  |  |  |  |  |  | X |  |
| Minnesota |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

* - Even emancipation decrees which are phrased in terms of total rights of majority do not usually allow the minor to participate in activities which have age-based restrictions not explicitly tied to the age of majority.

NOTES:

h) Petition must be accompanied by written consent and declaration of parents. Consent not required if basis of petition is parents' ill treatment, refusal to support or other corrupt conduct.

TABLE 3E

CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

| | | | | | CONDITIONS FOR GRANTING | | | | | EFFECT OF GRANTING (SPECIFIC MENTION) | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | MINOR MUST BE AGE | RESIDENCE REQUIRED | PETITIONER | NOTICE REQUIRED TO | CHILD'S BEST INTEREST | PARENTAL CONSENT | ABILITY TO MANAGE OWN AFFAIRS | PARENTS NOT SUPPORTING | OTHER | OBTAINS RIGHTS OF MAJORITY * | CAN VALIDATE CONTRACT | CAN CONVEY PROPERTY | CAN SUE AND BE SUED | TERMINATES PARENT'S CUSTODY/CONTROL | OTHER |
| Mississippi | None Stated | Or Own Property | Minor's Next Friend | Publication | | Note i | | | | | X | X | X | | |
| Missouri | | | | | | | | | | | | | | | |
| Montana | | | | | | | | | | | | | | | |
| Nebraska | | | | | | | | | | | | | | | |
| Nevada | | | | | | | | | | | | | | | |
| New Hampshire | | | | | | | | | | | | | | | |
| New Jersey | | | | | | | | | | | | | | | |
| New Mexico | | | | | | | | | | | | | | | |
| New York | | | | | | | | | | | | | | | |

* Even emancipation decrees which are phrased in terms of total rights of majority do not usually allow the minor to participate in activities which have age-based restrictions not explicitly tied to the age of majority.

NOTES:

i) No consent required, but must join parents as defendants.

TABLE 3E

## CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

| | | | | | CONDITIONS FOR GRANTING | | | | | EFFECT OF GRANTING (SPECIFIC MENTION) | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | MINOR MUST BE AGE | RESIDENCE REQUIRED | PETITIONER | NOTICE REQUIRED TO | CHILD'S BEST INTEREST | PARENTAL CONSENT | ABILITY TO MANAGE OWN AFFAIRS | PARENTS NOT SUPPORTING | OTHER | OBTAINS RIGHTS OF MAJORITY* | CAN VALIDATE CONTRACT | CAN CONVEY PROPERTY | CAN SUE AND BE SUED | TERMINATES PARENT'S CUSTODY/CONTROL | OTHER |
| North Carolina | 16 | Yes | Minor | Parent | X | | | X | Note j | | X | X | X | X | |
| North Dakota | | | | | | | | | | | | | | | |
| Ohio | None Stated | Yes | Minor | Parents, Next of Kin | | | | | | Not General Emancipation | | | | See Note k | |
| Oklahoma | None Stated | Or Own Property | Minor's Next Friend | Parents Publication | | | | | | | X | | | | Note l |

* Even emancipation decrees which are phrased in terms of total rights of majority do not usually allow the minor to participate in activities which have age-based restrictions not explicitly tied to the age of majority.

NOTES:

j) Shall consider: (1) parental need for minor's earnings; (2) ability to function as adult; (3) need to contract; (4) employment status, stability of living arrangements; (5) extent of family discord; (6) rejection of parental supervision and support; (7) quality of parental supervision.

k) This is a selective emancipation statute, but one that requires judicial action: A minor who has a cause of action for personal injury, or injury to tangible or intangible property, may file an application with the probate court to have the damages obtained from such injury to be declared his. The result is a full and complete discharge of any claim the parents might have to the damages. The minor must claim emancipation by wrongful act, neglect or default.

l) May transact business in general.

TABLE 3E

CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

| | | | | | CONDITIONS FOR GRANTING | | | | | EFFECT OF GRANTING (SPECIFIC MENTION) | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | MINOR MUST BE AGE | RESIDENCE REQUIRED | PETITIONER | NOTICE REQUIRED TO | CHILD'S BEST INTEREST | PARENTAL CONSENT | ABILITY TO MANAGE OWN AFFAIRS | PARENTS NOT SUPPORTING | OTHER | OBTAINS RIGHTS OF MAJORITY * | CAN VALIDATE CONTRACT | CAN CONVEY PROPERTY | CAN SUE AND BE SUED | TERMINATES PARENT'S CUSTODY/CONTROL | OTHER** |
| Oregon | 16 | Yes | Minor | Parents | X | Con-sider | Con-sider | Con-sider | | | X | X | X | | Note m |
| Pennsylvania | | | | | | | | | | | | | | | |
| Puerto Rico | 18<br>Note n | | Orphaned Minor or Relative<br>Note n | | X | | X | X | Note o | X | | | | | |
| Rhode Island | | | | | | | | | | | | | | | |
| South Carolina | None Stated | | Guardian | | | | | | | Not General Emancipation | | | | See Note p | |

* Even emancipation decrees which are phrased in terms of total rights of majority do not usually allow the minor to participate in activities which have age-based restrictions not explicitly tied to the age of majority.

NOTES:

m) For purpose of establishing residence; for purposes of criminal law.

n) Judicial emancipation is limited to orphans.

o) Minor must consent.

p) May bring an action so the minor may legally borrow money related to real estate.

TABLE 3E

CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

| STATE | MINOR MUST BE AGE | RESIDENCE REQUIRED | PETITIONER | NOTICE REQUIRED TO | CONDITIONS FOR GRANTING | | | | | EFFECT OF GRANTING (SPECIFIC MENTION) | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | CHILD'S BEST INTEREST | PARENTAL CONSENT | ABILITY TO MANAGE OWN AFFAIRS | PARENTS NOT SUPPORTING | OTHER | OBTAINS RIGHTS OF MAJORITY* | CAN VALIDATE CONTRACT | CAN CONVEY PROPERTY | CAN SUE AND BE SUED | TERMINATES PARENT'S CUSTODY/CONTROL | OTHER |
| South Dakota | 16 | | | | | | | X | | X | | | | | |
| Tennessee | 16 | Or own Property | Next Friend Note q | | X | Note q | | | | | X | For Non-resident | X | | Note r |
| Texas | | | | | X | Verification | | | | Unless Decree Limits | | | | | |
| Utah | | | | | | | | | | | | | | | |
| Vermont | | | | | | | | | | | | | | | |
| Virgin Islands | 16 | | Minor or Relative | | | Note s | X | | | Note t | | No | No | X | |

* Even emancipation decrees which are phrased in terms of total rights of majority do not usually allow the minor to participate in activities which have age-based restrictions not explicitly tied to the age of majority.

NOTES:

q) Must join parents or kindred or guardian as defendants.

r) Can grant for specific purpose.

s) May be emancipated without consent if parents ill treat or refuse to maintain and educate minor or give him corrupt examples.

t) An orphan, 18 (unchanged since age of majority changed) can be judicially emancipated; he obtains the benefits of majority.

TABLE 3E

CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

| STATE | MINOR MUST BE AGE | RESIDENCE REQUIRED | PETITIONER | NOTICE REQUIRED TO | CONDITIONS FOR GRANTING: CHILD'S BEST INTEREST | PARENTAL CONSENT | ABILITY TO MANAGE OWN AFFAIRS | PARENTS NOT SUPPORTING | OTHER | EFFECT OF GRANTING (SPECIFIC MENTION): OBTAINS RIGHTS OF MAJORITY * | CAN VALIDATE CONTRACT | CAN CONVEY PROPERTY | CAN SUE AND BE SUED | TERMINATES PARENT'S CUSTODY/CONTROL | OTHER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Virginia | | | | | | | | | | | | | | | |
| Washington | | | | | | | | | | | | | | | |
| West Virginia | 16 | | Minor | Parents<br>Publication | | | X | X | Note u | X | X | | | X | Note v |
| Wisconsin | | | | | | | | | | | | | | | |
| Wyoming | | | | | | | | | | | | | | | |

* Even emancipation decrees which are phrased in terms of total rights of majority do not usually allow the minor to participate in activities which have age-based restrictions not explicitly tied to the age of majority.

NOTES:

u) Good cause must be shown.

v) Remains child for purposes of juvenile court act.

# TREND SUMMARY

## Chapter 4: Child's Ability to Consent to Medical Treatment

The decade of the 80's should see a rounding-out of the issue of minors, particularly mature minors, being permitted to give consent to certain types of medical treatment. Some areas which already are included are VD and pregnancy. The vast majority of states already permit such consent, a trend that began in the late 60's and early 70's. However, wholesale changes are not to be expected.

The most notable aspect of the medical consent area is its lack of clarity. That is to say, the topic of medical treatment, depending on its type and whether or not it is of an emergency nature, has been dealt with in most instances in a piecemeal fashion.

Even with the landmark decisions in the area of minor abortions, there has been an insignificant number of states which have sought to alter their statutory framework either for or against treatment for pregnancy. Of course, the recentness of the Supreme Court decision in the abortion area renders any statutory analysis of abortion statutes premature.

Perhaps the single largest area under this topic in which a change is most noticeable lies in the area of notice. Every state now allows some treatment of minors without notice to parents. And those states which require some notice usually leave it to the option of the physician. However, it is certainly clear that the physician cannot withhold treatment from the child nor should the physician be allowed to use the withholding of treatment as a lever to get the child to consent to giving of notice to parents.

Clearly what is needed in this area is a uniform approach to protecting physicians and others who render medical service and advice. While the rendering of the services is permitted without consent by statute, the liability of the service provider is not clear. This matter has always been a murky one, even with adults, and therefore should demand comprehensive attention in the years ahead.

The U.S. Supreme Court abortion decision has not been totally resolved in all of its procedural aspects and the reader can look forward to seeing additional cases in this area for the next several years. The substantive issue, it is believed, has been for the most part resolved by the Supreme Court. Like any other landmark decision of its nature, procedural rights will still be in the developmental stage for some time to come.

The rounding-off or refinement of state statutes will likely be limited to such areas as permitting minors to consent to psychiatric treatment, further compliance with the decisions of the U.S. Supreme Court which limit the state from prohibiting an abortion to a minor predicated on consent of parents or strictly on court judicial determination of best interest of the child, and in the area of commitment of minors to mental institutions.

It is likely, however, that there will be continued constitutional development of the concept known as the right to treatment which has received declining attention over the last several years and has, in part, been absorbed within the generic concept of "right to privacy." The right to treatment concept, of course, is limited primarily to the area of mental incarceration or rehabilitation of a minor who has been incarcerated pursuant to the juvenile statutes.

# CHAPTER 4

## CHILD'S ABILITY TO CONSENT TO MEDICAL TREATMENT

One of the disabilities of minority mentioned in Chapter 2 is the child's inability to secure medical, dental, surgical or psychiatric care for himself. At common law, the child's parents' consent was both necessary and sufficient to secure treatment for the child. The parent was thus the one who weighed alternatives and who made informed decisions for the child. The parent was also the one who paid for the provided services.

Judicial decisions made some inroads into this area of parental decisionmaking. Exceptions were developed for (1) emergency situations, (2) emancipated minors, and (3) mature minors (those able to understand the nature and consequence of their acts). The first two exceptions were based on convenience: parents were frequently not around when emergencies arose for older children or when a child was living apart from his parents and was self-supporting. Only the mature minor doctrine recognized the developing capacity of minors to make informed decisions. Judicial decisions based on neglect statutes also took the decisionmaking role away from parents in those situations in which the parents' decision to pursue or not to pursue a course of treatment posed severe threats to the child's health. Rarely, though, was the child allowed to make the medical decisions in parental neglect cases; the court might consult the child, but it also might just supply a new adult decisionmaker for the child.

Legislatures in all jurisdictions have begun to carve out areas in which children will be allowed to make medical care decisions for themselves. Statutes either allow some children (by category) to consent to most treatment, or they allow most children to consent to some specific types of treatment. Statutes discussed and charted in this chapter deal with the following areas:

Emergency treatment
General medical, surgical, dental, hospital, psychiatric treatment
Veneral disease treatment
Pregnancy detection and care
Birth control services and information
Abortions
Alcohol/drug abuse treatment

The U.S. Supreme Court has been active in articulating why some medical care decisions should be entrusted to minors. Medical care decisions frequently involve the right to privacy which is a constitutionally protected right. In 1976, in a case which considered parental veto over abortion decisions, the court reaffirmed the idea that minors have constitutionally protected rights. The court said "constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors as well as adults are protected by the Constitution."[1] In 1976 the court's concern about the minor's privacy right led it to decide that a state could not condition a child's ability to get an abortion on the parent's consent.

---

[1] Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52 (1976).

In 1979 the U.S. Supreme Court[2] decided that the child's ability to get an abortion could not be conditioned on a court's decision that the child had good cause to seek an abortion. The challenged Massachusetts statute provided in part:

> If the mother is less than eighteen years of age and has not married, the consent of both the mother and her parents [to an abortion to be performed on the mother] is required. If one or both of the mother's parents refuse such consent, consent may be obtained by order of a judge of the superior court for good cause shown after hearing as he deems necessary.[3]

The court had earlier rejected arguments that (1) all minors capable of becoming pregnant also were capable of giving informed consent to abortion, or (2) that abortion was always in the best interest of the child. The court, however, was convinced that a substantial number of females under 18 were capable of forming valid consent[4] and that a substantial number of that group were unwilling to tell their parents. The 1979 court decided that the Massachusetts statute did not adequately protect the privacy rights of that group of pregnant minors. It was then faced with the question of what decisionmaking scheme would be constitutionally adequate.

The court rejected a pattern that requires a court to look at the child's view and the parent's view and decide which might be in the child's interest; the court chose to designate certain pregnant minors as their own decisionmakers for abortion questions. Minors who were mature and well-informed enough to make an intelligent decision on their own were allowed to make that decision. Further, the court stated that the child's privacy would be unduly burdened if the child were required to consult with her parents in making this decision. The court added that for those children not mature enough to decide for themselves a judge will decide on the basis of the child's best interest, again not necessarily in consultation with the parents.

In effect, the court said that in those situations in which a family schism has occurred because of the abortion decision (or in which the minor anticipated it will occur) the state will step into the parental role. As the "parent," the state will decide when the child can be trusted to make an informed decision on her own. Thus reviewed, the pattern of suggested decisionmaking in abortion cases is similar to that set out by states in general medical consent statutes. In many jurisdictions only minors in certain categories can consent to general medical or surgical treatment. "Married minors," "emancipated minors" and "mature minors" are three of the most common categories. In the first two of these the parents have decided that the children are ready to make decisions for themselves, in the third the court has made that decision.

---

[2] Bellotti v. Baird, 99 S. Ct. 3035 (1979).

[3] Mass. Gen. Laws Ann. Ch. 112, Sec. 12S (West 1977).

[4] Baird v. Bellotti, 393 F. Supp. 847, 854 (1975).

It is possible that in legislating to allow children to consent in specific areas the states are taking a child's privacy interest into account; many areas where children are allowed to make their own decisions to seek medical treatment are related to sexual activity and reproduction. It is more likely though that states have legislated in areas of high public health concern; veneral disease, pregnancy, and substance abuse are all areas in which the community profits from having the child free to seek help on his or her own. Because parental decisionmaking and state decisionmaking in the public interest play such a large role in legislation allowing children to consent to medical treatment, one should be cautious in concluding that the large number of statutes in this area means that states are moving toward recognizing that a minor's capacity to consent increases as he gets older.

## Emergency Treatment

An emergency is defined as circumstances in which "delay in treatment poses an immediate threat to life" or in which immediate medical or surgical treatment is necessary to avoid danger to "life, health or mental well-being."[5] Twenty-nine states have statutes which explicitly permit medical treatment to be rendered to a minor without parental consent in an emergency. (See Table 4B.)

The statutes generally do not state that a child's consent will be sufficient in emergency situations; they instead remove any requirement of consent if the parent's or guardian's consent cannot be obtained. This parallels the general common law rule for adults. Consent to treatment is implied.

Only one state, Florida, spells out specific requirements for emergency treatment. The requirement of parental consent will be waived if (a) the minor is too ill or injured to be able to identify his parent, or (b) parents cannot be reached by phone.

## Non-Emergency Treatment

### 1. General medical, dental, surgical or psychiatric care

Thirty-seven states have provided that minors of a certain status may consent to some medical, dental, surgical or psychiatric care. (See Table 4A.) In most states medical and dental treatment are included. Many states include surgical or hospital care. Recently, states have added outpatient psychiatric treatment or counseling for mental illness (emotional problems).

---

[5] See e.g., Fla. Stat. Ann. Sec. 458.21 (West Supp. 1979).

The most frequently recognized status is married. If in a valid or a voidable but not yet set aside "marriage," a minor in 34 states can consent to a variety of treatments.

A minor who is otherwise "emancipated" can get treatment without parental consent in 19 states. Some statutes just use the word "emancipation" without definition. To define emancipation one must refer to other statutory or case law within the jurisdiction. Others set out particular factors to be considered when deciding whether the minor is emancipated. The most frequently seen factors in medical statutes are living separate and apart from parents, and being economically independent. If the minor is living apart from parents the ability to consent to his own treatment is a necessary convenience. Since emancipated minors are usually held financially liable for treatment they consent to, "economic independence" is a practical test.

Other common categories are "pregnant" (five states) or "minor parent" (23 states). Extra responsibilities and necessity of obtaining treatment support extending ability to consent to these groups.

The maturity test or "mature minor" doctrine, recognized by the courts as early as 1906[6] has been codified by only four states. Under this doctrine if a child is capable of understanding the nature and consequences of the medical procedure, his consent is sufficient. The parameters of this test are uncertain. Most cases which have used a maturity test concerned children near the age of majority and relatively simple medical procedures. Maturity is usually determined by the physician; it is just one of several factors considered. Other factors might include the complexity of the procedure, the availability of treatment, the judgment that parents would have consented, and the opinion of another doctor.

States have lowered the general age of consent. A few states set no minimum at all. One state, Louisiana, does not require that certain criteria exist before a minor can consent. Legislative concern that beneficial treatment be "readily available" to all minors who want treatment resulted in the enactment of a broad statute. It allows any minor who believes he is inflicted with a disease or illness to consent to treatment.

Surprisingly, a fourth of the states make no provision for any minor to consent to non-emergency treatment. It is likely that these states will follow the common law rules.

### 2. Specific Conditions

Every state has enacted provisions that allow a minor to consent to treatment for certain medical conditions. These statutes cover specific public health concerns or private matters and have consent requirements that generally are broader than those needed to receive a general non-emergency medical treatment.

---

[6] Bakker v. Welch, 144 Mich. 632, 108 N.W. 94 (1906).

a. Veneral Disease Treatment

Minors can consent to treatment for veneral disease in every state. Minimum age requirements are found in seven states; the remaining states permit any child to consent. (See Table 4C.) All states allow the minor to receive both diagnosis and treatment. A large number also provide hospital and surgical care. In a few states counseling by the treating physician is mandatory.

b. Pregnancy Related Treatment

Medical care to determine the presence of, and to treat, pregnancy is available to minors without parental consent in 24 states. (See Table 4E.) Only Delaware and Hawaii have age requirements: 12 years in Delaware, 14 in Hawaii. Whether treatment for pregnancy includes preventive treatment, contraception or abortion, is an open question which several statutes fail to address with specificity. Seven states specifically exclude abortions. Only the Virgin Islands statutorily includes the right to obtain an abortion. The California statute has been interpreted to include therapeutic abortions.[7]

c. Birth Control Services and Information

In Carey v. Population Services Int'l,[8] the Supreme Court determined that a state cannot deny minors the right to receive non-prescription contraceptives. A blanket prohibition on the distribution of contraceptives to minors was held to be unconstitutional. A minor has the right (based on right to privacy) to make her own decision in childbearing matters. The question remains: What type of limited prohibition might be constitutional? Thirty-nine states have statutes which mention a minor's ability to obtain contraceptives. Of these, 13 states place no limitation on the availability of contraceptive services and information. Several states (Colorado is a typical example) list various means by which a minor can obtain birth control assistance without parental consent. These statutes enable a child who is pregnant, is a parent, is married, has parental consent, or is referred by a physician, family planning clinic, school or government agency to obtain care. Colorado makes the list all-inclusive by adding the factor, any minor who requests services and is in need. (See Table 4E.) Delaware and Hawaii list minimum ages. Georgia mentions only females.

The 1974 amendment to Aid to Families of Dependent Children[9] requires states to offer family planning services and supplies to eligible people of childbearing age, including minors. Only Iowa and West Virginia have consent statutes which speak to financial need.

---

[7] Ballard v. Anderson, 4 Cal. 3d 873, 484 P.2d 1345, 95 Cal. Rptr. 1 (1971).

[8] 431 U.S. 678 (1977).

[9] 42 U.S.C. Sec. 602(a)(15)(f) (1974).

### d. Alcohol and Drug Abuse

Thirty-six states enable a minor to consent to drug abuse treatment. Twenty-five also include treatment for alcoholism. (See Table 4D.) This treatment can include medical care, hospital care, counseling, or enrollment in a special substance abuse program.[10]

## Notice to Parents

A very important issue in the provision of medical care to minors without parental consent is whether parents should be notified that the child has been treated. It has been argued that in those areas where the law tried to encourage minors to seek medical treatment it is counter-productive to require that parents be notified. The fear is that a minor will allow veneral disease to go untreated or pregnancy to go unmonitored for months if seeking treatment means that the minor's condition will be disclosed to his parents after treatment. In favor of notification is the argument that a minor needs the care and guidance of adults even more during the stressful period of illness.

As a compromise, most states that have covered the notice in their statute have given physicians the authority to notify parents even if the child objects, but have not required that physicians do so. (See Table 4A.) In many statutes the factors that the physician should take into account in deciding whether to notify are spelled out. Frequently mentioned are: jeopardy to the minor or others in the absence of notification, seriousness of illness, and need for hospitalization. A few statutes weight the decision in favor of non-disclosure unless non-disclosure would be detrimental to the child's health. More commonly, the statute will state that the physician should do what will be beneficial for the child. Some statutes do prohibit notice. Frequently a state will forbid a physician from notifying parents if a child does not have the illness or condition for which he has sought diagnosis and treatment.

## Treatment for Mental Illness

Statutes that authorize children to receive general medical care without parental consent frequently include a section which enables a child to give valid consent for psychiatric or counseling care. The statutes usually address only outpatient care. A very difficult question is that of whose consent should be sufficient to secure treatment for mental illness on an inpatient basis. Should the parents of a minor be able to place him in a mental hospital and require him to stay just as they might place him in a hospital for treatment of a physical illness?

---

[10] See Chapter 10 and Table 10D, *infra*, for detailed discussion of substance abuse programs.

There are significant differences in the consequences to a child from hospitalization for mental rather than physical illness. In addition to the infringement on the child's freedom to come and go there is the possibility (1) of injury to the child's reputation, and (2) that a child, wrongfully committed or coercively treated when a less restrictive setting would have been appropriate, will be harmed rather than benefitted by the confinement. Length of confinement and isolation from the community are likely to be greater in the mental health hospital. Because of these potentially adverse consequences it has been suggested that a state ought to put some limits on the parents' right to commit a child to a mental institution. It has been argued that if a child is old enough to participate intelligently in the decisionmaking process the state ought to guarantee him a voice; if the child is not mature enough the state ought to surround the admissions process with protections to make sure that commitment is in the child's best interests.

These suggestions, of course, run up against traditional notions of family autonomy. Decisions about treatment for emotional illness require intimate knowledge of the child and his needs. Who is better able than the parents to evaluate suggestions made by health care professionals and choose the appropriate course of treatment? Unless the parents' decision fails to meet minimum standards, that is, unless the decision results in neglect or abuse of the child, which will lead to injury to the child, the state is reluctant to intervene.

Proponents of state-required protections argue that respect for family autonomy is inappropriate in situations in which it is likely that the parents' and child's interests will not coincide. In an amicus brief in Wyatt v. Stickney[11] counsel argued:

> The family may be motivated to ask for such institutionalization for a variety of reasons other than the best interest of the child himself, i.e., the interests of other children in the family, mental and physical frustration, economic stress, hostilities toward the child stemming from the added pressure of caring for him, and the perceived stigma. . .

In Wyatt the issue was commitment for mental retardation. The pressures of dealing with a mentally ill child might be even greater.

If the usual presumption that a parent will act in the child's best interest is suspect in commitment situations, perhaps due process to protect the child's liberty interest is as necessary here as it is when the state acts against the child (for example in delinquency proceedings).[12] In Parham v. J.L.,[13] the court was asked to declare Georgia's statutory scheme for voluntary commitment for children to mental hospitals unconstitutional because it failed to protect adequately the child's due process rights. The statute allowed admission upon application by a parent or guardian. The superintendent of the hospital was allowed to admit a child for temporary observation and to keep the child hospitalized if the superintendent found "evidence of mental illness" and that the child was "suitable for treatment." No adversary hearing pre- or post-admission was required.[14]

---

[11] 325 F. Supp. 781 (M.D. Ala. 1971).

[12] See Chapter 6, Section 2, "Procedural Protections," infra.

[13] 99 S. Ct. 2493 (1979).

The District Court found the statute unconstitutional and enjoined future commitments under the statute.[15] It also ordered the state of Georgia to appropriate whatever amount was "reasonably necessary" to provide non-hospital facilities appropriate for treatment of those plaintiff children who required less drastic non-hospital treatment.

The Supreme Court decided that the challenged statute was constitutional. Although it recognized that the children had a substantial liberty interest in not being unnecessarily confined to mental institutions, the court found that the initial review of parental admission request by medical personnel was adequate to protect the child's interests. The court recognized the natural bonds of affection that lead parents to act in the best interests of their children. It stated that the possibility parents may act against the interest of their child was not enough to

> . . .discard wholesale those pages of human experience that teach that parents generally do act in the child's best interest. . .we conclude that our precedents permit the parents to retain a substantial if not dominate role in the decision, absent a finding of neglect or abuse. . .They, of course, retain plenary authority to seek such care for their children, subject to a physician's independent examination or medical judgment.[16]

The court ruled that states may authorize parents to commit children to mental institutions without the protection of formal adversary hearings. As Table 4G shows 36 states do have voluntary commitment statutes that allow parents to commit their children without adversary hearing. Thirteen of these states do require that where admission is sought for an older child the child's consent is also necessary.

All but five statutes require medical hearings or specify procedures for professional assessment of the parent's decision. While it is true that some professional assessment goes into every decision to admit, the question is whether a statute must, to withstand a due process challenge, set out the required procedures for medical evaluation. Statutes in some states must be read in conjunction with agency-promulgated guidelines or regulations. It is possible that a jurisdiction which does not mention medical evaluation in its voluntary admissions statute will have regulations that cover this point.

---

[14] Ga. Code Sec. 88-503.1 (1979).

[15] J.L. v. Parham, 412 F. Supp. 112, 139 (M.D. Ga. 1976).

[16] Parham v. J.R., 99 S. Ct. 2493, 2504-05 (1979).

Adults who admit themselves for voluntary treatment are able to secure release from the hospital by giving notice (as defined in the commitment statute) to release, notice to the institution director is required a statutorily prescribed number of days (usually 10) before release. The waiting period is to allow the institution time to institute involuntary commitment proceedings for those patients whose release the hospital feels is "dangerous." States vary in their release requirements for voluntarily admitted minors. If a state allows a child to admit himself it usually allows a minor to release himself. If both parental consent and consent of the minor were required for admission, then the requirements for release will include request of both or request of either. Some states have procedures whereby a minor committed by one adult may be released to another. (See Table 4G.)

## EXPLANATION OF SYMBOLS

## TABLE 4A

## MINOR'S CONSENT TO GENERAL MEDICAL, SURGICAL PSYCHIATRIC AND HEALTH SERVICES

PARENTAL NOTICE REQUIREMENT:

A. Physician may inform parent or guardian of treatment when he/she believes it will benefit the minor.

B. Upon the advice of the treating physician, if more than one, one of them may, but is not obligated to, inform parent or guardian of treatment. Information may be given or withheld without consent and over objections of minor.

C. Physician does not have to inform parent or guardian of treatment if he/she believes it would seriously jeopardize the health of the minor.

D. Where there is severe complications, major surgery, or jeopardy to minor's health because of failure to inform, informing would help family harmony,or hospital needs third party commitment to pay,the physician may inform parent or guardian without violating the right to privacy.

E. No information shall be released without written consent of minor, however, when physician believes condition of minor is so serious that minor's life or limb is endangered, physician shall notify parents and inform minor.

TABLE 4A

MINOR'S CONSENT TO GENERAL MEDICAL, SURGICAL, PSYCHIATRIC AND HEALTH SERVICES

| STATE | MINOR'S CONSENT IS VALID IF MINOR | | | | | | MINOR MAY CONSENT TO | | | | | PARENTAL NOTICE REQUIREMENT | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | REACHES AGE | IS OR WAS MARRIED | IS OR WAS PREGNANT | IS A PARENT | IS EMANCIPATED GENERALLY* | OTHER | MEDICAL CARE | SURGICAL CARE | HOSPITAL CARE | DENTAL CARE | HEALTH SERVICES | NONE | A | B | C | D | E |
| Alabama | 14 | X | X | X | | N a | X | | | X | Mental | X | | | | | |
| Alaska | | X | | X | X | N b | X | | | X | | X | | | | | |
| Arizona | | X | | | X | | X | X | | | | X | | | | | |
| Arkansas | | X | | X | X | N c | X | X | X | X | X | X | | | | | |
| California | | X | | | If 15 | | X | X | X | X | N d | | X | | | | |
| Colorado | | X | | X | If 15 | | X | X | X | X | | X | | | | | |
| Connecticut | | X | | X | If 16 | | X | | X | X | Psych. | X | | | | | |
| Delaware | | X | | X | | | X | X | X | X | N e | X | | | | | |
| District of Columbia | | | | | | | | | | | | | | | | | |
| Florida | | X | | | | | X | X | X | X | X | X | | | | | |
| Georgia | | X | | X | | | X | X | X | X | X | X | | | | | |
| Guam | | | | | | | | | | | | | | | | | |
| Hawaii | | X | | | | | X | X | X | X | X | X | | | | | |
| Idaho | | | | | | | | | | | | | | | | | |
| Illinois | | X | X | | | | X | X | | | | X | | | | | |
| Indiana | | X | | | X | | X | X | X | | | X | | | | | |
| Iowa | | | | | | | | | | | | | | | | | |
| Kansas | 16 N f | X | | X | | | X | X | X | | | X | | | | | |

* See Chapter 3 and included tables for detail on emancipation.

NOTES:

a) High school graduate.
b) Parent unavailable, or parent refuses to consent.
c) Mature minor: of sufficient intelligence to understand and appreciate the consequences of the proposed treatment.
d) Also can consent to x-ray and anesthetic procedures; 12 or older can consent to outpatient mental health treatment.
e) Also can consent to osteopathic and post mortem procedures.
f) If parent not immediately available.

TABLE 4A

MINOR'S CONSENT TO GENERAL MEDICAL, SURGICAL, PSYCHIATRIC AND HEALTH SERVICES

| STATE | MINOR'S CONSENT IS VALID IF MINOR |  |  |  |  |  | MINOR MAY CONSENT TO |  |  |  |  | PARENTAL NOTICE REQUIREMENT |  |  |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | REACHES AGE | IS OR WAS MARRIED | IS OR WAS PREGNANT | IS A PARENT | IS EMANCIPATED GENERALLY | OTHER | MEDICAL CARE | SURGICAL CARE | HOSPITAL CARE | DENTAL CARE | HEALTH SERVICES | NONE | A | B | C | D | E |
| Kentucky |  | X |  | X | X |  | X | X | X | X | X |  | X |  |  |  |  |
| Louisiana |  |  |  |  |  | N g | N h | X | X |  | X |  |  | X |  |  |  |
| Maine |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Maryland | 16 | X |  | X |  | X | X | X | X | X | X N i |  |  | X |  |  |  |
| Massachusetts |  | X | X | X | X | N j | X |  |  | X |  |  |  |  |  |  | X |
| Michigan |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Minnesota |  | X |  | X | X |  | X | X | X | X | X |  |  |  | X |  |  |
| Mississippi |  | X |  | X | X | N k | X | X | X | X | X | X |  |  |  |  |  |
| Missouri |  | X |  | X |  |  | X | X | X | X | X |  |  |  |  |  | X |
| Montana |  | X |  | X | X | N l | X | X | X | X |  |  |  |  |  | X |  |
| Nebraska |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Nevada |  | X |  | Female | X | N m |  |  |  |  | X | N n |  |  |  |  |  |
| New Hampshire |  |  |  |  |  | N p | X | X | X | X | X | X |  |  |  |  |  |
| New Jersey |  | X | X |  |  |  | X | X | X |  |  | X |  |  |  |  |  |
| New Mexico |  | X |  |  | X |  | X | X | X |  |  | X |  |  |  |  |  |
| New York |  | X |  | X |  |  | X |  | X | X | X | X |  |  |  |  |  |
| North Carolina |  | X |  | X | X | N q | X | X | X | X | N r | X |  |  |  |  |  |
| North Dakota |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

NOTES:

g) Minor believes inflicted with illness, or for traumatic injury.
h) Also can consent to all "necessary and beneficial" medical care.
i) Diagnosis and consultation for mental or emotional disorders.
j) Member of armed forces.
k) Mature minor (see Note c above).
l) High school graduate, self supporting.
m) Minor must understand nature and consequences and probable outcome of proposed treatment.
n) Minor's permission needed to inform parents unless feel would jeopardize health of minor.
p) Mature minor (see Note C above).
q) Parent unavailable, identity of child unknown.
r) Also can consent to x-rays, blood transfusions, administration of drugs, emotional disturbance.

TABLE 4A

MINOR'S CONSENT TO GENERAL MEDICAL, SURGICAL, PSYCHIATRIC AND HEALTH SERVICES

| STATE | MINOR'S CONSENT IS VALID IF MINOR | | | | | | MINOR MAY CONSENT TO | | | | | PARENTAL NOTICE REQUIREMENT | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | REACHES AGE | IS OR WAS MARRIED | IS OR WAS PREGNANT | IS A PARENT | IS EMANCIPATED GENERALLY | OTHER | MEDICAL CARE | SURGICAL CARE | HOSPITAL CARE | DENTAL CARE | HEALTH SERVICES | NONE | A | B | C | D | E |
| Ohio | | | | | | | | | | | | | | | | | |
| Oklahoma | | X | | X | X | N s | N t | X | X | | | | | X | | | |
| Oregon | 15 | X | | | | | X | X | X | X | | | | X | | | |
| Pennsylvania | | X | X | X | | N u | X | | | X | X | X | | | | | |
| Puerto Rico | | | | | | | | | | | | | | | | | |
| Rhode Island | 16 | X | | X | | | N v | X | | | | X | | | | | |
| South Carolina | 16 N w | X | | X | | | X | No | | | | X | | | | | |
| South Dakota | | | | | X | | X | X | | X | | | | | | | |
| Tennessee | | | | | | | | | | | | | | | | | |
| Texas | | X | | | If 16 | N x | X | X | X | X | | | | X | | | |
| Utah | | | | | | | | | | | | | | | | | |
| Vermont | | | | | | | | | | | | | | | | | |
| Virgin Islands | | | | | | | | | | | | | | | | | |
| Virginia | N y | X | | | | | X | X | | | | X | | | | | |
| Washington | | X | | | | | X | X | X | | | X | | | | | |
| West Virginia | | | | | | | | | | | | | | | | | |
| Wisconsin | | | | | | | | | | | | | | | | | |
| Wyoming | | | | | | | | | | | | | | | | | |

NOTES:

s) Self-supporting.
t) Major surgery, life threatening procedures and general anesthesia require concurrence of another physician.
u) High school graduate.
v) Routine emergency care.
w) Minor may consent when less than 16 when treatment in physician's judgment is for wellbeing of minor. (Does not include operations.)
x) Active duty armed services.
y) Any minor may consent to medical or health services for outpatient care for treatment for mental or emotional disorder.

## TABLE 4B

## MINOR'S CONSENT TO EMERGENCY TREATMENT*

| STATE | MINOR'S CONSENT SUFFICIENT | SERVICES COVERED | | | | | PARENTAL NOTICE REQUIREMENT | | | | PROVIDES FOR COURT CONSENT |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | MEDICAL | SURGICAL | HOSPITAL | DENTAL | HEALTH CARE SERVICES | NONE | MUST GIVE | MAY GIVE | IF PARENT ASKS | |
| Alabama | X | X | | | X | X | X | | | | |
| Alaska | X | X | | | X | | | | | | |
| Arizona | | | | | | | | | | | X |
| Arkansas | X Note a | X | X | | | | X | | | | X |
| California | ** | | | | | | | | | | |
| Colorado | ** | | | | | | | | | | |
| Connecticut | ** | | | | | | | | | | |
| Delaware | X Note b | X | X | X | | X | X | | | | |
| District of Columbia | | | | | | | | | | | |
| Florida | X | | | X | X | Note c | | X | | | |
| Georgia | X | X | X | | | | | | | | |
| Guam | | | | | | | | | | | |
| Hawaii | ** | | | | | | | | | | |
| Idaho | | | | | | | | | | | |
| Illinois | X | X | X | X | X | | X | | | | |
| Indiana | X | X | | | | | X | | | | |
| Iowa | | | | | | | | | | | |
| Kansas | Note d | | | | | X | X | | | | |
| Kentucky | X | X | X | | | | X | | | | |
| Louisiana | ** | | | | | | | | | | |

* Where no one authorized to consent is available or to delay would, in the physician's opinion, endanger the life or health of minor.

** If meets conditions for general consent in Table 4A, minor can, of course, consent to emergency treatment. There are no special emergency care provisions in these jurisdictions.

NOTES:

a) Minor can consent when parents cannot be contacted or will not consent (with counsel from provider of services).
b) Physician may examine and treat for laceration, fracture or other traumatic injury suffered, or symptom, disease, pathology threaten minor's health.
c) Treatment must be in hospital or college health service only.
d) Health care may be provided to minor injured in competitive sports.

## TABLE 4B

## MINOR'S CONSENT TO EMERGENCY TREATMENT*

| STATE | MINOR'S CONSENT SUFFICIENT | SERVICES COVERED |  |  |  |  | PARENTAL NOTICE REQUIREMENT |  |  |  | PROVIDES FOR COURT CONSENT |
|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  | MEDICAL | SURGICAL | HOSPITAL | DENTAL | HEALTH CARE SERVICES | NONE | MUST GIVE | MAY GIVE | IF PARENT ASKS |  |
| Maine |  |  |  |  |  |  |  |  |  |  |  |
| Maryland | X | X |  |  |  |  |  |  | X |  |  |
| Massachusetts | X | X | X | Trans- fusion | X |  | X |  |  |  |  |
| Michigan |  |  |  |  |  |  |  |  |  |  |  |
| Minnesota | X | X | X |  | X | X | X |  |  |  | X |
| Mississippi | X | X | X |  |  |  | X |  |  |  | X |
| Missouri | X |  |  |  |  |  |  |  |  |  |  |
| Montana | X | X | X | X | X | Psycho- logical |  | Note e |  |  | X |
| Nebraska |  |  |  |  |  |  |  |  |  |  |  |
| Nevada |  |  |  |  |  |  |  |  |  |  |  |
| New Hampshire |  |  |  |  |  |  |  |  |  |  |  |
| New Jersey | ** |  |  |  |  |  |  |  |  |  |  |
| New Mexico |  |  |  |  |  |  |  |  |  |  |  |
| New York | X | X | X | X |  |  | X |  |  |  |  |
| North Carolina | X Note f | X | X | X |  | X | X |  |  | X | X |
| North Dakota | X | X |  |  |  |  | X |  |  |  |  |
| Ohio |  |  |  |  |  |  |  |  |  |  |  |
| Oklahoma | X | X | X |  |  |  |  | X |  |  |  |
| Oregon | ** |  |  |  |  |  |  |  |  |  |  |
| Pennsylvania | X | X |  |  | X | X | X |  |  |  |  |
| Puerto Rico |  |  |  |  |  |  |  |  |  |  |  |
| Rhode Island | ** |  |  |  |  |  |  |  |  |  |  |

** If meets conditions for general consent in Table 4A, minor can, of course, consent to emergency treatment. There are no special emergency care provisions in these jurisdictions.

NOTES:

e) Notice to parents as soon as possible except where minor meets general consent requirements.

f) Where parents refuse to consent, a physician, with the concurrence of another physician, may treat the minor over objections.

## TABLE 4B

## MINOR'S CONSENT TO EMERGENCY TREATMENT*

| STATE | MINOR'S CONSENT SUFFICIENT | SERVICES COVERED | | | | | PARENTAL NOTICE REQUIREMENT | | | | PROVIDES FOR COURT CONSENT |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | MEDICAL | SURGICAL | HOSPITAL | DENTAL | HEALTH CARE SERVICES | NONE | MUST GIVE | MAY GIVE | IF PARENT ASKS | |
| South Carolina | ** | | | | | | | | | | |
| South Dakota | ** | | | | | | | | | | |
| Tennessee | | | | | | | | | | | |
| Texas | | | | | | | | | | | |
| Utah | | | | | | | | | | | |
| Vermont | | | | | | | | | | | |
| Virgin Islands | X | X | X | X | X | | | | X | | X |
| Virginia | X Note g | X | X | | | | X | | | | |
| Washington | ** | | | | | | | | | | |
| West Virginia | | | | | | | | | | | |
| Wisconsin | | | | | | | | | | | |
| Wyoming | X | Note h | | | | | X | | | | |

** If meets conditions for general consent in Table 4A, minor can, of course, consent to emergency treatment. There are no special emergency care provisions in these jurisdictions.

NOTES:

g) If minor is 14, minor's consent is required.
h) Treatment must occur in an established hospital.

## EXPLANATION OF SYMBOLS

### TABLE 4C

### MINORS CONSENT TO TREATMENT FOR VENERAL DISEASE

A. Upon the advice of the treating physician or if more than one, one of them, may, but is not obligated, to inform the minor's parent or legal guardian of the treatment needed or given. This information may be given or withheld without the minor's consent and over the minor's objection.

B. A (above) plus: If minor does not have veneral disease than physician shall not inform parents of consultation without minor's consent.

C. Physician may inform parent or guardian when he believes it will be beneficial to the minor.

D. Physician must inform parent or guardian of the minor only if minor does have venereal disease.

TABLE 4C

## MINOR'S CONSENT TO TREATMENT FOR VENEREAL DISEASE

| STATE | CHILD MAY CONSENT AT AGE | CONSENT TO WHICH SERVICES | | | | PARENTAL NOTICE REQUIREMENT | | | | | | REPORT TO AGENCY |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | DIAGNOSIS | TREATMENT | HOSPITAL | SURGICAL | NONE | A | B | C | D | OTHER | |
| **Alabama** | any | X | X | | | X | | | | | | |
| **Alaska** | any | X | X | | | X | | | | | | |
| **Arizona** | any | X | X | X | | X | | | | | | |
| **Arkansas** | any | X | X | X | X | | X | | | | | |
| **California** | 12 | X | X | X | X | X | | | | | | |
| **Colorado** | any | X | X | | | | | | | | Note a | |
| **Connecticut** | any | X | X | | | | | | | | | Note b |
| **Delaware** | 12 | X | X | X | X | | | | X | | | |
| **District of Columbia** | any | X | X | | | | | | | X | | |
| **Florida** | any | X | X | X | X | | Note c | | | | | |
| **Georgia** | any | X | X | X | X | | X | | | | | |
| **Guam** | | | | | | | | | | | | |
| **Hawaii** | 14 | X | X* | | | | | | | X | | |
| **Idaho** | 14 | X | X | X | X | X | | | | | | |
| **Illinois** | 12 | X | X* | | | | X | | | | | X |
| **Indiana** | any | X | X | | | X | | | | | | |
| **Iowa** | any | X | X | | X | X | | | | | | |
| **Kansas** | any | X | X | | | | | | X | | | |

* Counseling must be included.

NOTES:

a) If in the physician's opinion the minor is a menace to the health of others he may disclose the fact that the minor has veneral disease to the parent or legal guardian.

b) If the minor is less than 12 years old then the minor's name, age and address shall be provided to the Commissioner of Social Services.

c) Add: Physician should make a sincere attempt to persuade the minor to divulge nature of condition to minor's parents.

## TABLE 4C

## MINOR'S CONSENT TO TREATMENT FOR VENEREAL DISEASE

| STATE | CHILD MAY CONSENT AT AGE | CONSENT TO WHICH SERVICES | | | | PARENTAL NOTICE REQUIREMENT | | | | | | REPORT TO AGENCY |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | DIAGNOSIS | TREATMENT | HOSPITAL | SURGICAL | NONE | A | B | C | D | OTHER | |
| Kentucky | any | X | X | | | | | | X | | | |
| Louisiana | any | X | X | X | X | | X | | | | | |
| Maine | any | X | X | | | | | | | | Note d | |
| Maryland | any | X | X | | | | X | | | | | |
| Massachusetts | any | X | X | | | | | | | | Note e | |
| Michigan | any | X | X | X | X | | X | | | | | |
| Minnesota | any | X | X | | | | X | | | | | |
| Mississippi | any | X | X | | | X | | | | | | |
| Missouri | any | X | X | X | X | | | X | | | | |
| Montana | any | X | X* | X | X | | | X | | | | |
| Nebraska | any | X | X | | | X | | | | | | |
| Nevada | Note f | X | X | | | X | | | | | | |
| New Hampshire | 14 | X | X | | | X | | | | | | |
| New Jersey | any | X | X | | | X | | | | | | |
| New Mexico | any | X | X | | | X | | | | | | X |
| New York | any | X | X | | | X | | | | | | |
| North Carolina | any | X | X | | | X | | | | | | X |
| North Dakota | 14 | X | X | | | X | | | | | | |

* Counseling must be included.

NOTES:

d) Physician is not obligated to inform or obtain consent of parent or guardian. If minor is hospitalized more than 16 hours parent or guardian must be notified and consent obtained.

e) When physician believes minor's life or limbs are endangered he shall notify parent or guardian and inform minor of such notice.

f) Minor suspected of or found to have venereal disease may be forced to undergo treatment though minor refuses to consent and parental consent is not obtained.

TABLE 4C

## MINOR'S CONSENT TO TREATMENT FOR VENERAL DISEASE

| | CHILD MAY CONSENT AT AGE | CONSENT TO WHICH SERVICES | | | | PARENTAL NOTICE REQUIREMENT | | | | | | REPORT TO AGENCY |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | DIAGNOSIS | TREATMENT | HOSPITAL | SURGICAL | NONE | A | B | C | D | OTHER | |
| Ohio | any | X | X | | | X | | | | | | |
| Oklahoma | any | X | X* | | | | | X | | | | |
| Oregon | any | X | X | X | X | X | | | | | | |
| Pennsylvania | any | X | X | | | X | | | | | | |
| Puerto Rico | any | X | X | | | X | | | | | | |
| Rhode Island | any | X | X | | | X | | | | | | |
| South Carolina | any | X | X | | | X | | | | | | X |
| South Dakota | any | X | X | | | X | | | | | | |
| Tennessee | any | X | X | | | X | | | | | | |
| Texas | any | X | X | X | X | | X | | | | | |
| Utah | any | X | X | | | X | | | | | | |
| Vermont | 12 | X | X | | | | | | | | Note g | |
| Virgin Islands | any | X | X | X | X | | | X | | | | |
| Virginia | any | X | X | | | X | | | | | | |
| Washington | 14 | X | X | X | X | X | | | | | | |
| West Virginia | any | X | X | | | X | | | | | | |
| Wisconsin | any | X | X | | | X | | | | | | |
| Wyoming | any | X | X | | | X | | | | | | |

* Counseling must be included.

NOTES:

g) If minor is immediately hospitalized, must notify parent.

## EXPLANATION OF SYMBOLS UNDER PARENTAL NOTICE

## TABLE 4D

## MINOR'S CONSENT TO DRUG AND ALCOHOL TREATMENT

A. Physician may notify parents if there are medical reasons or he believes would be beneficial to minor, or if professional believes parent should be included in a treatment plan.

B. Physician may, but is not obligated, to inform parent.

C. Physician must notify if minor is hospitalized.

D. Physician may not notify parents without minor's consent.

TABLE 4D

MINOR'S CONSENT TO DRUG AND ALCOHOL TREATMENT*

| STATE | MINIMUM AGE REQUIRED | TREATMENT FOR DRUG ABUSE | TREATMENT FOR ALCOHOLISM | SCOPE OF CONSENT |  |  |  | PARENTAL NOTICE SECTIONS |  |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  |  |  | MEDICAL | SURGICAL | MENTAL HEALTH | ABUSE PROGRAMS | A | B | C | D | OTHER |
| Alabama | None | X | X | X |  | X |  |  |  |  |  |  |
| Alaska |  |  |  |  |  |  |  |  |  |  |  |  |
| Arizona | 12 | X & Withdrawal |  | X |  |  |  |  |  |  |  |  |
| Arkansas |  |  |  |  |  |  |  | X |  |  |  |  |
| California | 12 | X | X | X |  | X |  |  |  |  |  | Note a |
| Colorado | None | X | X (Emergency) | X |  | X |  |  |  |  | X |  |
| Connecticut | None | X |  | X |  |  |  |  |  |  |  |  |
| Delaware | 12 |  | X |  |  |  | X |  |  |  |  |  |
| District of Columbia |  |  |  |  |  |  |  |  |  |  |  |  |
| Florida | None | X |  | X |  | X |  |  |  |  |  |  |
| Georgia | None | X |  | X |  | X |  |  | X |  |  |  |
| Hawaii | 14 | X | X |  |  | X |  |  | X |  |  |  |
| Idaho | 16 | X |  |  |  |  | X |  |  |  | X |  |
| Illinois | 12 | X |  | X |  | X |  |  | X |  |  |  |
| Indiana | None | X | X |  |  |  | X |  |  |  | X |  |
| Iowa |  |  |  |  |  |  |  |  |  |  |  |  |
| Kansas | None | X | X | X (Drug) |  |  | X | X |  |  |  |  |
| Kentucky | None | X | X | X |  | X |  |  | X |  |  |  |
| Louisiana | None | X |  | X | X |  |  |  |  | Note b |  |  |
| Maine | None | X | X |  |  |  |  |  | X |  |  |  |
| Maryland | None | X | X | X |  | X | X |  |  |  |  |  |
| Massachusetts | 12 | X Note c |  | X |  |  |  |  |  |  |  |  |
| Michigan | None | X | X | X |  |  |  | X |  |  |  |  |

* See Table 10D for detail on state-mandated programs for drug and alcohol abuse.

NOTES:

a) No notice required.
b) Must notify if hospitalized for more than 16 hours.
c) Two physicians must find that minor is dependent on drugs.

## TABLE 4D

## MINOR'S CONSENT TO DRUG AND ALCOHOL TREATMENT

| STATE | MINIMUM AGE REQUIRED | TREATMENT FOR DRUG ABUSE | TREATMENT FOR ALCOHOLISM | SCOPE OF CONSENT |  |  |  | PARENTAL NOTICE SECTIONS |  |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  |  |  | MEDICAL | SURGICAL | MENTAL HEALTH | ABUSE PROGRAMS | A | B | C | D | OTHER |
| Minnesota | None | X | X | X |  | X |  |  |  |  |  | Note d |
| Mississippi | 15 | X | X |  |  | X |  |  | X |  |  |  |
| Missouri | None | X | X | X | X |  | X (16) |  | X |  |  |  |
| Montana | None | X | X | X | X |  |  |  |  |  |  | Note e |
| Nebraska |  |  |  |  |  |  |  |  |  |  |  |  |
| Nevada | None Note f | X |  | X |  |  |  |  |  |  |  | Note g |
| New Hampshire | 12 Note h | X |  | X |  |  |  |  |  |  | X |  |
| New Jersey | None | X |  | X |  |  |  |  |  |  | X |  |
| New Mexico | None | X |  | X |  |  |  |  |  |  |  |  |
| New York |  |  |  |  |  |  |  |  |  |  |  |  |
| North Carolina | None | X | X | X |  |  |  |  |  |  |  |  |
| North Dakota | None | X | X | X |  |  |  |  |  |  |  |  |
| Ohio | None | X |  | X |  |  |  |  |  |  |  |  |
| Oklahoma | None | X | X | X |  | X |  |  | Note i |  |  |  |
| Oregon |  |  |  |  |  |  |  |  |  |  |  |  |
| Pennsylvania |  | X |  | X |  |  |  |  |  |  |  |  |
| Rhode Island |  |  |  |  |  |  |  |  |  |  |  |  |
| South Carolina |  |  |  |  |  |  |  |  |  |  |  |  |
| South Dakota |  |  |  |  |  |  |  |  |  |  |  |  |
| Tennessee |  |  |  |  |  |  |  |  |  |  |  |  |
| Texas | None | X | X | X | X |  |  |  | X |  |  |  |
| Utah |  |  |  |  |  |  |  |  |  |  |  |  |
| Vermont | 12 | X | X | X |  |  |  |  |  | X |  |  |
| Virgin Islands | None | X |  | X | X |  |  |  | Note j |  |  |  |
| Virginia | None | X |  | X |  | X |  |  |  |  |  |  |

NOTES:

d) Physician may inform parents where not to inform would seriously jeopardize minor's life.
e) Physician may inform under specified conditions.
f) If minor will not consent he will nonetheless be deemed to have consented.
g) Physician must make reasonable efforts to notify parent.
h) Mature minor doctrine applies.
i) May inform only if diagnosed as dependent on drugs or alcohol.
j) May inform only if diagnosed as dependent on drugs or alcohol.

## TABLE 4D

## MINOR'S CONSENT TO DRUG AND ALCOHOL TREATMENT

| STATE | MINIMUM AGE REQUIRED | TREATMENT FOR DRUG ABUSE | TREATMENT FOR ALCOHOLISM | SCOPE OF CONSENT | | | | PARENTAL NOTICE SECTIONS | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | MEDICAL | SURGICAL | MENTAL HEALTH | ABUSE PROGRAMS | A | B | C | D | OTHER |
| Washington | 14 | X | | X | | | X | | | | | |
| Wisconsin | | | | | | | | | | | | |
| Wyoming | | | | | | | | | | | | |

## EXPLANATION OF SYMBOLS

### TABLE 4E

### MINOR'S ABILITY TO OBTAIN CONTRACEPTIVES AND TREATMENT FOR PREGNANCY

A. Notice to parent or guardian is discretionary with physician. If operate, however, notice must be mailed to parents' last known address. Operation will proceed if delay would endanger minor's life.

B. Notice to parent or guardina id discretionary withphysician. If minor is pregnant he/she must consult minor. If minor is not pregnant he/she may or may not inform.

C. Physician may inform parent or guardian if he/she believes that would be beneficial to the minor. (North Carolina adds: if parent contacts physician information will be provided.)

D. Note B (general statutes). Except notice must be given to parent or guardian before an abortion is performed unless physician believes informing may lead to physical or emotional abuse of minor.

E. Physician shall inform parent or guardian if life or limb of minor is endangered.

F. Note B (general statutes). If minor is found not to be pregnant no information may be disclosed. (Last sentence does not apply to Texas.)

## TABLE 4E

## MINOR'S ABILITY TO OBTAIN CONTRACEPTIVES AND TREATMENT FOR PREGNANCY

(See text for discussion of effect of Supreme Court decisions in this area)

| STATE | BIRTH CONTROL | | | PREGNANCY | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | WHO RECEIVES | WHAT RECEIVES | | MINOR CONSENT SUFFICIENT DETECTION/ TREATMENT | STATUTE EXCLUDES ABORTION | PARENTAL NOTICE | | | | | | |
| | | SUPPLIES/ SERVICES | INFORMATION | | | None | A | B | C | D | E | F |
| Alabama | Any | No | X | X | | X | | | | | | |
| Alaska | Any | | | X | | X | | | | | | |
| Arizona | Any | Note a | X | | | | | | | | | |
| Arkansas | Any | | | X | | X | | | | | | |
| California | Any | X | X | X | No, Note b | X | | | | | | |
| Colorado | * | X | X | | | | | | | | | |
| Connecticut | | | | | | | | | | | | |
| Delaware | At least 12 | X | | If 12 | X | | X | | | | | |
| District of Columbia | | | | | | | | | | | | |
| Florida | | | | X | | X | | | | | | |
| Georgia | Any female | X | X | X | X | X | | | | | | |
| Guam | | | | | | | | | | | | |
| Hawaii | At least 14 | X | X | If 14 | X | | | X | | | | |
| Idaho | Mature minor | X | X | | | | | | | | | |
| Illinois | * | X | X | | | | | | | | | |
| Indiana | | | | | | | | | | | | |
| Iowa | AFDC eligible | X | | | | | | | | | | |
| Kansas | | | | X | | X | | | | | | |
| Kentucky | Any | X | X | X | X | | | | X | | | |
| Louisiana | | | | | | | | | | | | |
| Maine | | | | | | | | | | | | |
| Maryland | Any | X | | X | No | | | | | | | X |

* Minor who is pregnant, a parent, married, has parental consent, referred by physician, clergy, family planning clinic, school, government agency may consent to services (Colorado add: minor who requests services and is in need).

NOTES:

a) Unmarried minor less than 15 may consent to sterilization.

b) Statute has been interpreted to include therapeutic abortions, mature minor may obtain abortion.

TABLE 4E

MINOR'S ABILITY TO OBTAIN CONTRACEPTIVES AND TREATMENT FOR PREGNANCY

(See text for discussion of effect of Supreme Court decisions in this area)

| STATE | BIRTH CONTROL | | | PREGNANCY | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | WHO RECEIVES | WHAT RECEIVES | | MINOR CONSENT SUFFICIENT DETECTION/ TREATMENT | STATUTE EXCLUDES ABORTION | PARENTAL NOTICE | | | | | | |
| | | SUPPLIES/ SERVICES | INFORMATION | | | None | A | B | C | D | E | F |
| Massachusetts | | | | | | | | | | | X | |
| Michigan | | | | | | | | | | | | |
| Minnesota | Note c | X | X | X | | | | | | | X | |
| Mississippi | | | | X | | X | | | | | | |
| Missouri | * | X | X | X | X Note d | X | | | | | | |
| Montana | Any | X | X | X | X | | | | | | | X |
| Nebraska | | | | | | | | | | | | |
| Nevada | | | | | | | | | | X | | |
| New Hampshire | | | | | | | | | | | | |
| New Jersey | | | | X | | X | | | | | | |
| New Mexico | | | | X | | X | | | | | | |
| New York | | | | | | | | | | | | |
| North Carolina | Any Note e | X | X | X | X | | | | X | | | |
| North Dakota | | | | | | | | | | | | |
| Ohio | | | | | | | | | | | | |
| Oklahoma | Any Note f | X | X | X | X | | | | | | | X |
| Oregon | Any | X | X | | | | | | | | | |
| Pennsylvania | | | | X | No if informed minor | X | | | | | | |
| Puerto Rico | | | | | | | | | | | | |

* Minor who is pregnant, a parent, married, has parental consent, referred by physician, clergy, family planning clinic, school, government agency may consent to services.

NOTES:

c) Minor who is emancipated, married, borne a child. If other, doctor must tell parents why recommends family planning.
d) Statute has been interpreted to mean only excludes payment for abortion.
e) Minor less than 16 may receive if for well-being of minor.
f) Counseling of minor is required.

TABLE 4E

MINOR'S ABILITY TO OBTAIN CONTRACEPTIVES AND TREATMENT FOR PREGNANCY

(See text for discussion of effect of Supreme Court decisions in this area)

| STATE | BIRTH CONTROL | | | PREGNANCY | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | WHO RECEIVES | WHAT RECEIVES | | MINOR CONSENT SUFFICIENT DETECTION/ TREATMENT | STATUTE EXCLUDES ABORTION | PARENTAL NOTICE | | | | | | |
| | | SUPPLIES/ SERVICES | INFORMATION | | | None | A | B | C | D | E | F |
| Rhode Island | | | | | | | | | | | | |
| South Carolina | | | | | | | | | | | | |
| South Dakota | | | | | | | | | | | | |
| Tennessee | | | | | | | | | | | | |
| Texas | | | | | | | | | | | | |
| Utah | | | | X | X | | | | | | | X |
| Vermont | | | | X | | X | | | | | | |
| Virgin Islands | Any | X | X | | | | | | | | | |
| Virginia | Any | X | X | X | No, Note g | | | | | | | X |
| Washington | Any | X | X | X | No | X | | | | | | |
| West Virginia | Indigent | X | | | | | | | | | | |
| Wisconsin | | | | | | | | | | | | |
| Wyoming | Any | X | X | | | | | | | | | |

NOTES:

g) Statute specifically includes abortions.

## TABLE 4F

## MINOR'S CONSENT TO ABORTION

(See text for discussion of effect of Supreme Court decisions in this area)

| STATE | CHILD'S CONSENT SUFFICIENT | PARENTAL NOTICE REQUIREMENT | COMMENTS |
|---|---|---|---|
| Alabama | No-parent's consent | None | By Dr. in approved hosp.; 30 day residence requirement |
| Alaska | No-parent's consent | None | 30 day residence requirement; by Dr. or surgeon |
| Arizona | Statute refers to Belloti v Baird 418 U.S. 132 (1976 | | |
| Arkansas | No-parent's written consent | None | 4 month residence requirement; only in hospital |
| California | Yes (refers to Ballard v Anderson 4 c. 3d 873 (1971) | None | Therapeutic abortion, in accredited hospital |
| Colorado | No-parent's consent | None | Only therapeutic abortion |
| Connecticut | Declared Unconstitutional See: Abele v Morkle (D.Conn. 1973) 369 F. Supp. 807, 423 U.S. 9 | | |
| Delaware | Yes-minor 12 or older | Discretionary with Doctor primary consideration minor's best interest | Only therapeutic abortions |

## TABLE 4F

## MINOR'S CONSENT TO ABORTION

(See text for discussion of effect of Supreme Court decisions in this area)

| STATE | CHILD'S CONSENT SUFFICIENT | PARENTAL NOTICE REQUIREMENT | COMMENTS |
|---|---|---|---|
| District of Columbia | Minor not specifically mentioned | None | Only therapeutic abortions |
| Florida | Yes | Good faith effort | Dr. in approved facility |
| Georgia | Minor not specifically mentioned | None | Dr. says necessary; no abortion after 2nd trimester except save life mother |
| Hawaii | Minor not specifically mentioned but see Sect.577A-1 | None | Dr. must perform, in hospital if after 2nd trimester |
| Idaho | Yes | None | Minor can not be forced to abort |
| Illinois | No-parent's consent (if refused have court order) | None | Dr. decides in best judgment have abortion |
| Indiana | Yes | None | |
| Iowa | Yes | None | During 1st 12 weeks of pregnancy |
| Kansas | Yes, if Dr. believes woman needs abortion | None | |

## TABLE 4F

## MINOR'S CONSENT TO ABORTION

**(See text for discussion of effect of Supreme Court decisions in this area)**

| STATE | CHILD'S CONSENT SUFFICIENT | PARENTAL NOTICE REQUIREMENT | COMMENTS |
|---|---|---|---|
| Kentucky | Yes. Statue requiring consent parent after 1st trimester held unconstitutional in Wolfe v Shroering 541 F 2d 523 | None | |
| Louisiana | Yes, if 16 or older | 24 hr. (72 constructive) | |
| Maine | Yes | 24 hr. | |
| Maryland | Yes, if capable of informed consent or by court order | Note a | Cannot force minor to accept abortion |
| Massachusetts | Yes, if minor is mature or in best interests (Bellotti v Baird) | | |
| Michigan | Yes | None | Dr. must file confidential report, include age of woman |
| Minnesota | Yes, if emancipated | Dr. must notify parents as to why recommended abortion | |

NOTES:

a) No notice is needed where minor lives apart from parents or reasonable effort to notify are unsuccessful. Doctor may waive notice where believe lead to physical or mental abuse of minor.

## TABLE 4F

## MINOR'S CONSENT TO ABORTION

(See text for discussion of effect of Supreme Court decisions in this area)

| STATE | CHILD'S CONSENT SUFFICIENT | PARENTAL NOTICE REQUIREMENT | COMMENTS |
|---|---|---|---|
| New York | | | |
| North Carolina | No. See Atty Gen. Op. 41 NCAG 489 (1971); 41 NCAG 709 (1972) | None | By Dr. in certified hospital or clinic within 20 weeks |
| North Dakota | Yes | Before period viability 24 hr. notice (or 48 hr written notice) before if minor is unemancipated; after viability and to save life mother need parent consent any unmarried minor under 18 | Cannot force woman to have abortion |
| Oklahoma | Statute refers to Bellotti v Baird | | |
| Oregon | No-parent's written consent except to save mother's life | None | Abortion only to: save mother; child has defect; rape |
| Pennsylvania | No-unless save life mother | None | Cannot force woman to abort; statute refers to Planned Parenthood v Fitzpatrick 401 F. Supp. 554 (1975) affirmed, 428 U.S. 901 |

## TABLE 4F

## MINOR'S CONSENT TO ABORTION

(See text for discussion of effect of Supreme Court decisions in this area)

| STATE | CHILD'S CONSENT SUFFICIENT | PARENTAL NOTICE REQUIREMENT | COMMENTS |
|---|---|---|---|
| Mississippi | Statute refers to Roe v Wade, 410 U.S. 113 & Doe v Bolton, 410 U.S. 179 | | |
| Missouri | Yes, if emancipated or court has ordered | | |
| Montana | Yes | Written notice if minor under 18 or unmarried except if abortion needed to save woman's life | Cannot force woman to have an abortion |
| Nebraska | Yes, must consult with parents | None | |
| Nevada | Yes, if emancipated or married (if married need husband's consent) | None | Done by Dr; in hosp. only after 1st trimester |
| New Hampshire | Minor not specifically mentioned | None | Only therapeutic abortions |
| New Jersey | Statute states prece<br>must be followed by | dent established by<br>the lower courts | U.S. Supreme Court |
| New Mexico | No-consent living parent | None | In accredited hospital |

## TABLE 4F

## MINOR'S CONSENT TO ABORTION

(See text for discussion of effect of Supreme Court decisions in this area)

| STATE | CHILD'S CONSENT SUFFICIENT | PARENTAL NOTICE REQUIREMENT | COMMENTS |
|---|---|---|---|
| Rhode Island | Abortion statutes held unconstitutional because Roe v Wade 410 U.S. 113 (1976) | None | No mention minor but states killing quick child is manslaughter |
| South Carolina | Yes but if minor 16 or younger except to save mother's life | None | |
| South Dakota | Yes. Statute refers to Planned Parenthood v Danforth 428 U.S. 52 (1976) | | |
| Tennessee | Yes | Notice needed unless abortion needed to save mother's life or minor is married | Parent objection not change minor's decision |
| Utah | Yes (Dr. must give woman name 2 adoption agencies and tell her consequences/details abortion) | If possible-Dr. consider age, family situation, minor's physical, emotional, psychological safety | |
| Vermont | | None | |
| Virgin Islands | Yes | Dr. may notify parents with or without minor's consent | |

## TABLE 4F

## MINOR'S CONSENT TO ABORTION

(See text for discussion of effect of Supreme Court decisions in this area)

| STATE | CHILD'S CONSENT SUFFICIENT | PARENTAL NOTICE REQUIREMENT | COMMENTS |
|---|---|---|---|
| Virginia | No-written parent's consent | None | Dr. must perform |
| Texas | No laws related to abortion per se Op. Attn. Gen. 1974 No. H-139. Proposed legislation must conform to *Roe v Wade*. | | |
| Washington | No-parent's consent But see, *State v Koome* 84 Wn. 2d 901, 530 P 2d 260 (1975) holding requirement unconstitutional | | |
| West Virginia | Statute does not specifically mention minors | None | |
| Wisconsin | Statute only allows therapeutic abortion; held unconstitutional. Refers to *Bellotti v Baird* and *Planned Parenthood v Danforth* | | |
| Wyoming | Yes | None | No abortion after viability except save mother's life |

## EXPLANATION OF SYMBOLS

## TABLE 4G

## VOLUNTARY ADMISSIONS OF MINORS TO MENTAL HOSPITAL

### Admission Request

A. Parent(guardian or person in loco parentis)request sufficient if child's age is below...
B. Child's request sufficient if child's age is at least...
C. Both required if child's age is at least...

### Release Request

D. Parent (guardian or person in loco parentis) request sufficient.
E. Child's request sufficient if child's age is at least
F. May condition release on parent's consent, if child below age...
G. Both required.

An "X" in a column means "in all cases without regard to minor's age."

## TABLE 4G

## VOLUNTARY ADMISSION OF MINORS TO MENTAL HOSPITALS

| STATE | ADMISSION REQUEST |  |  | RELEASE REQUEST |  |  |  | SUPERINTENDENT/ M.D. CONCURRENCE REQUIRED | ADMISSION HEARING REQUIRED UPON OBJECTION | SPECIAL PROTECTIONS FOR MINOR PATIENTS | VOLUNTARY ADMISSION STATUTE HAS NO AGE DISTINCTION | NOTICE TO PARENTS REQUIRED | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | A | B | C | D | E | F | G |  |  |  |  |  |  |
| Alabama |  |  |  |  |  |  |  |  |  |  | X |  |  |
| Alaska |  |  | X |  |  | X |  | X |  |  |  |  |  |
| Arizona |  |  | 14 |  |  |  |  | X |  |  |  |  |  |
| Arkansas |  |  |  |  |  |  |  |  |  |  | X |  |  |
| California | X |  |  | X |  |  |  | X |  | Note a |  |  |  |
| Colorado | X | 15 |  |  |  | X |  | X |  |  |  | X |  |
| Connecticut | X | 16 |  |  |  |  |  | X |  |  |  |  |  |
| Delaware |  | 16 | * |  |  | X |  | X |  |  |  |  |  |
| District of Columbia | X |  |  | X |  |  |  | X |  |  |  |  |  |
| Florida | X | X |  | X | X |  |  | X | Note b |  |  |  |  |
| Georgia | X |  |  | X |  |  |  | X |  |  |  |  | Note c |
| Guam | X | 16 |  |  |  | X |  | X |  |  |  |  |  |

* Under 16.

NOTES:

a) Voluntary patient admitted during his minority shall not be detained after he reaches the age of majority unless he reapplies for admittance. Section 6000.

b) If child who applies for voluntary admission is 17 years or younger, hearing is required to verify voluntariness of his consent to treatment. Section 394.465.

c) Child who is at least 12 years of age may make application for observation and diagnosis. If it is determined that such child is suitable for treatment at the facility, parents will be contacted for their consent. 88-503.1-88-503.3.

TABLE 4G

## VOLUNTARY ADMISSION OF MINORS TO MENTAL HOSPITALS

| STATE | ADMISSION REQUEST |  |  | RELEASE REQUEST |  |  |  | SUPERINTENDENT/ M.D. CONCURRENCE REQUIRED | ADMISSION HEARING REQUIRED UPON OBJECTION | SPECIAL PROTECTIONS FOR MINOR PATIENTS | VOLUNTARY ADMISSION STATUTE HAS NO AGE DISTINCTION | NOTICE TO PARENTS REQUIRED | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | A | B | C | D | E | F | G |  |  |  |  |  |  |
| Hawaii | 15 |  | 15 | X | X |  |  | X | X |  |  |  | Note d |
| Idaho | X | 14 |  | Note e |  | 16 |  | X |  |  |  | Note e |  |
| Illinois | X | 16 |  |  |  |  |  | X |  | Note f |  | X |  |
| Indiana | X |  |  | X |  |  |  | X |  |  |  |  |  |
| Iowa |  |  | X |  |  | X |  | X | X |  |  |  |  |
| Kansas | X | 14 |  |  |  |  |  | X |  |  |  | X | Note g |
| Kentucky | X |  |  |  |  |  |  | X |  | Note h |  |  |  |
| Louisiana |  |  |  |  |  |  |  | X |  |  | X |  |  |
| Maine | X |  |  |  |  |  |  | X |  |  |  |  |  |
| Maryland | X |  |  |  |  |  |  | X |  | Note i |  |  |  |

NOTES:

d) If child between 15 and 17 years elects not to co-sign voluntary admission request, his parents may initiate involuntary hospitalization proceedings. Section 33.60.

e) If child requesting admission is between 14 and 18 years old, facility will notify parents of application. Parents can apply for child's immediate discharge if he is under 18 years. 66-318.

f) Minor, 12 years of age or older, will be given a copy of his application and an explanation of his rights. Section 3-505. These rights include the opportunity to submit a written objection to admission. Objections can be made by minor himself, if he is at least 12 years old, or by an interested person who is at least 18 years. Upon receipt of objection, facility director shall discharge minor at earliest appropriate time, not to exceed five days. 3-507, 3-508. Twenty days after admission, upon parent's request, the facility director shall assess need for continued hospitalization. Subsequent reviews of minor's record every 60 days.

g) Minor's release, requested by another who is under 18 years, may be conditioned upon parent's consent. 59-2907.

h) Voluntary patient is to be discharged when he reaches 18 years. Section 202A.020. Application by parent or voluntary admission of minor must be signed in presence of two witnesses who are 18 years old. Section 202A.020.

i) No minor shall be retained for more than one year unless his admission status has been subsequently changed or his parents have requested re-admission. 59 11.

TABLE 4G

VOLUNTARY ADMISSION OF MINORS TO MENTAL HOSPITALS

| STATE | ADMISSION REQUEST |  |  | RELEASE REQUEST |  |  |  | SUPERINTENDENT/ M.D. CONCURRENCE REQUIRED | ADMISSION HEARING REQUIRED UPON OBJECTION | SPECIAL PROTECTIONS FOR MINOR PATIENTS | VOLUNTARY ADMISSION STATUTE HAS NO AGE DISTINCTION | NOTICE TO PARENTS REQUIRED | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | A | B | C | D | E | F | G |  |  |  |  |  |  |
| Massachusetts | X | 16 |  | X | 16 |  |  | X |  | Note j |  |  |  |
| Michigan | X |  |  | X |  |  |  | X | X |  |  |  |  |
| Minnesota |  |  |  |  |  |  |  | X |  |  | X |  |  |
| Mississippi | X |  |  |  | X |  |  | X |  | Note k |  |  |  |
| Missouri | X | 16 |  | X |  |  |  | X |  |  |  |  |  |
| Montana |  | 16 | Note 1 |  | X |  |  | X |  | Note m |  |  |  |
| Nebraska |  |  |  |  | X |  |  | X |  |  | X |  |  |
| Nevada | X |  |  |  |  |  |  | X |  |  |  |  |  |
| New Hampshire | X | X |  |  |  |  |  | X | Note n |  |  |  |  |
| New Jersey | X | 18 |  |  |  |  |  | X |  |  |  |  |  |

NOTES:

j) Before admission, person making application (minor or parent) will be given the opportunity to consult with an attorney concerning legal effect of a voluntary admission.

k) "Voluntary admittee's" right to leave any time after five days will be communicated to him and to his parents at time of admission. 41-21-103.

l) If minor fails to join in consent of parents to his voluntary admission, it will be treated as an involuntary commitment. 53-21-112.

m) Unless minor's records have been reviewed periodically and there has been a voluntary re-admission, minor's voluntary admission status terminates. 53-21-112. Counsel shall be appointed for minor at his request if he is faced with legal proceedings. 53-21-112.

n) For all minors the admission petition must be initiated by a mental health professional. For minors 13 years of age or older, the voluntariness of the minor's admission must be tested by an involuntary admission hearing. The minor 13 or older may, on advice of counsel, waive the hearing.

TABLE 4G

## VOLUNTARY ADMISSION OF MINORS TO MENTAL HOSPITALS

| STATE | ADMISSION REQUEST |  |  | RELEASE REQUEST |  |  |  | SUPERINTENDENT/ M.D. CONCURRENCE REQUIRED | ADMISSION HEARING REQUIRED UPON OBJECTION | SPECIAL PROTECTIONS FOR MINOR PATIENTS | VOLUNTARY ADMISSION STATUTE HAS NO AGE DISTINCTION | NOTICE TO PARENTS REQUIRED | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | A | B | C | D | E | F | G |  |  |  |  |  |  |
| New Mexico |  |  | 12 |  | 12 |  |  | X | X | Note o |  |  |  |
| New York | 16 | Note p |  | X | X |  |  | X |  |  |  |  | Note q |
| North Carolina |  | X |  |  |  |  |  | X |  |  |  |  |  |
| North Dakota |  |  |  |  |  |  |  | X |  |  | X |  |  |
| Ohio | X |  |  | X |  |  |  | X | X |  |  |  |  |
| Oklahoma | X |  |  |  |  |  |  |  |  |  |  |  |  |
| Oregon | X |  |  | X |  |  |  | X |  |  |  |  |  |
| Pennsylvania | X | 14 |  | X | 14 |  |  | X | X | Note r |  | X |  |
| Rhode Island |  |  | X | X |  |  |  | X |  |  |  |  | Note s |
| South Carolina | X | 21 |  | X |  |  |  | X |  | Note t |  |  |  |

NOTES:

o) Some provisions of the detailed section setting out procedure guarantees for minors are: Minor is to be informed of the rights to refuse to consent to admission and to seek discharge. Counsel will be appointed to discuss with minor rights and procedures under voluntary admission. No minor will be represented by counsel who has advised or represented parents or treatment facility within past two years. Admission period shall not exceed 60 days. Physician will periodically (every 60 days) examine minor and review his records to determine whether his admission should continue. If minor has recovered, facility will contact his attorney. 43-1-16.

p) If minor is over 16 years of age and under 18 years, facility director may exercise discretion on whether to admit minor as voluntary parient. Section 9.13.

q) If minor's release is requested by someone other than minor or person who made application for admission, facility director may refuse to release minor. Section 9.13.

r) Within 72 hours of admission, minor will be examined and given individualized treatment plan. 50 Section 7205.

s) If someone, other than person who requests minor's admission, applies for minor's release, treatment facility can refuse to discharge patient. Person can then petition court for release order. 40.1-5-6.

t) Patient and parent will receive and acknowledge receipt of statement concerning patient's right to release. 44-17-340.

TABLE 4G

VOLUNTARY ADMISSION OF MINORS TO MENTAL HOSPITALS

| STATE | ADMISSION REQUEST |  |  | RELEASE REQUEST |  |  |  | SUPERINTENDENT/ M.D. CONCURRENCE REQUIRED | ADMISSION HEARING REQUIRED UPON OBJECTION | SPECIAL PROTECTIONS FOR MINOR PATIENTS | VOLUNTARY ADMISSION STATUTE HAS NO AGE DISTINCTION | NOTICE TO PARENTS REQUIRED | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | A | B | C | D | E | F | G |  |  |  |  |  |  |
| South Dakota | X |  |  | X |  |  |  | X | X |  |  |  |  |
| Tennessee | X | 16 |  | X | 16 |  |  | X |  | Note u |  |  |  |
| Texas | X |  |  |  |  |  | X | X |  |  |  |  |  |
| Utah | 16 |  | 16 |  |  |  | 16 | X |  |  |  |  |  |
| Vermont |  | 14 | * |  | X |  | or X |  |  | Note v |  |  |  |
| Virgin Islands | Note w |  |  |  |  |  |  | X |  |  |  |  |  |
| Virginia |  |  |  |  |  |  |  | X |  |  | X |  |  |
| Washington | 14 |  | 14 |  | 14 |  |  | X |  | Note x |  |  |  |
| West Virginia | 18 |  | 12 | 12 |  | X |  | X |  |  |  |  |  |
| Wisconsin | 14 |  | Note y |  | 14 |  |  | X | X | Note z |  |  |  |
| Wyoming | X |  |  |  |  | X |  | X |  |  |  |  |  |

* Under 14.

NOTES:

u) No person under 16 years of age may be admitted for more than one 6-month period in any 12-month period unless admissions committee approves further hospitalization. 33-601.

v) Before admitted, minor must give consent in writing, including a representation of his understanding of the commitment. T18 Section 503.

w) Consent of parent mentioned only with respect to "private patients" (i.e., admission to private facility). T19 Section 1175.

x) Minor's status and condition to be reviewed at least once every 180 days to determine whether voluntary commitment is still necessary. He can be released if considered in his best interests. Section 72.23.070. No person shall be retained after he reaches his 18th birthday unless he applies for voluntary (adult) admission. Section 72.23.070.

y) A child who is 14 years of age or more is entitled to a hearing if his parents object to his desire for voluntary admission. Short-term admission during this period if minor so requests.

z) Notice of Rights, Section 51.13. Minor who is 14 years or older is to be informed of the following rights: (a) Right to hearing; (b) Right to counsel; (c) Discharge within 48 hours; (d) Refuse treatment. All minors are entitled to court-appointed counsel or guardian ad litem if necessary.

## TREND SUMMARY

### Chapter 5: Restrictions on a Child's Freedom to Participate in Activities in the Community

This chapter consists of several subtopics which, quite interestingly, have experienced few changes of significance during the 70's. For instance, the labor laws which govern work for wages by minors have changed very little in the last five years. The basic age has not changed and except for two states that have added minimum ages for certificates there is no other change worth mentioning in this area. The same is true for the maximum daily and weekly hours which each state permits a child to work. Most state statutes are now virtually uniform in allowing children to work 48 hours a week (on the average) with a majority of states still limiting hours during the school year.

The last area of child labor law deals with the hours in which they are permitted to work and again there have been very few changes. Those changes that have occurred deal with the beginning hour at which a child may commence work. However, the range of hours in which children are prohibited from working has not changed at all.

In reference to statutes governing minor's use of motor vehicles, there have been no changes notwithstanding the fact that there continues to be substantial concern about adolescent drivers.

Some changes have been witnessed in statutes governing the legal age for the sale of beer, wine and distilled spirits to minors. While there appears to be public concern regarding alcohol abuse among adolescents, it also appears that the response to this problem has both been inadequate and perhaps portrays a feeling that the answer to this problem does not lie in adjusting the drinking age.

Within the last few years 11 states have raised the age for the legal purchase of distilled spirits, 9 for the purchase of wine and 8 for the purchase of beer. On the other hand, two states have lowered the age for all types of alcoholic beverages and one state has lowered it for the purchase of wine.

Another area in this chapter deals with tobacco products either purchased by a child or held in possession thereof. While there have been no notable changes in the age requirements for legal purchase, one statutory change of consequence is reflected in legislative attempts to impose punishment on a child who refuses to give information regarding the source of purchased tobacco products in his possession.

Of all of the areas cited above, the one that can be expected to produce the most legislative turmoil is that of legal drinking age. Increased frequency of court decisions can be expected regarding the constitutionality of laws reflecting a disparity of legal ages between male and female--one case already having ruled such disparity unconstitutional. Underlying the continuing concern and debate is the question of the degree to which manipulating the legal age for the purchase and use of alcohol and tobacco effects or is likely to effect adolescent consumption and the attendant problems such as teenage alcoholism that appear to be growing in size and severity.

# CHAPTER 5

# RESTRICTIONS ON A CHILD'S FREEDOM TO PARTICIPATE IN ACTIVITIES IN THE COMMUNITY

A minor does not have the same freedom to participate in activities as does an adult. In addition to the disabilities of minority discussed in Chapter 2, the state prohibits minors below specified ages from participating in conduct that might be harmful to them or that requires experience and judgment which minors do not yet possess. These enactments primarily affect the child's relationship with the community rather than with his parents. In most instances parents do not have the ability to allow children to participate when the state has forbidden participation. (For an exception, see the alcohol section.) To mention but a few restrictions that might be important to the older child, there are state-enforced limitations on the child's freedom to work, to drive, to drink, to use tobacco products, and to participate in the political process.

## 1. Working

Leaving protection of the minor in the hands of his parents was early deemed advisable in the area of gainful employment of the minor. At common law a parent had no duty to send a child to school. At the same time, a parent was entitled to his child's earnings. There was, thus, some tendency for parents to send children to work at an early age to supplement family income.

Even after the enactment of compulsory education laws[1] many children continued to work. In very few instances was the work an adequate substitute for schooling; children were likely to be employed in low-paying manual-labor jobs that did not prepare them for more challenging or remunerative jobs in the future. These jobs were often physically demanding or were done in factory conditions that posed threats of harm to the child's physical or mental health.

At the beginning of the 19th century, industry in general was largely unregulated; there were almost no restrictions on child labor. Reformers, worried about abuse and exploitation of children, and labor leaders, worried about the market effects of child labor, pressed for regulation. They sought child labor legislation to:

(1) protect children from exploitation with its consequential physical or emotional damage,

---

[1] The first compulsory school law was enacted by Massachusetts in 1852. A. Steinhilber and C. Sokolowski, State Law on Compulsory Education, 1966. U.S. Office of Education, Washington, D.C. See Chapter 7 *infra* for a discussion of compulsory schooling.

(2) buttress the compulsory school attendance laws, and

(3) end the depressive effect unregulated child labor had on adult wages.

Early reform was by state legislation. State laws varied in requirements and in effectiveness. Some states had no laws well into the 20th century. Those states that did have laws were at an economic disadvantage in competing with states where children could be employed. There was, therefore, a need for comprehensive federal legislation.

The major piece of federal legislation affecting child labor is the Fair Labor Standards Act[2] which was enacted in 1938. This Act (as amended over the last 42 years) prohibits the use of "oppressive child labor" in commerce, or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce."[3]

The act prohibits the shipment in interstate commerce of goods by any producer, manufacturer or dealer employing "oppressive child labor" at any time during the 30 days prior to such shipment. In other words, the employment of a minor contrary to the Act "taints" the production of the producer, manufacturer or dealer for a period of 30 days. The prohibition here is sweeping because

> . . .it extends to all the products of establishments employing children, instead of merely to products made by children. If a manufacturer employed but one child for but a fraction of a day, the ban would still fall upon the entire product of his plant for the 30-day period subsequent to which such employment occurred.[4]

"Oppressive child labor," under the Act, is defined as:

1. Employment of a child under 16, except employment of children between 14 and 16 years of age in such non-mining, non-hazardous and non-manufacturing occupations and under such conditions as the Secretary of Labor determines not to interfere with their schooling or well-being.

2. Employment of minors between 16 and 18 years of age in non-agricultural occupations found and by order declared by the Secretary of Labor to be particularly hazardous or detrimental to their health or well-being.

---

[2] Fair Labor Standards Act, ch. 676, Sec. 1, 52 Stat. 1060 (1938) (current version at 29 U.S.C. Sec. 201-19 (1979)).

[3] 29 U.S.C. Sec. 212(c) (1979).

[4] R.E. & R.F. Cushman, Cases in Constitutional Law, 443 (3d ed. 1967).

3. Employment of minors under 16 years of age in an agricultural occupation found and by order declared by the Secretary of Labor to be particularly hazardous.
4. The employment of a child under 14 in any occupation is "oppressive child labor" unless specifically exempt.[5]

The Secretary of Labor has issued a list of hazardous occupations in non-agricultural businesses. To engage in any of these occupations a minor must be at least 18:

1. Occupations in or about plants manufacturing or storing explosives or articles containing explosive components.
2. Occupations of motor-vehicle driver and helper.
3. Coal-mine occupations.
4. Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill.
5. Occupations involved in the operation of power-driven wood-working machines.
6. Occupations involving exposure to radioactive substances, and to ionizing radiations.
7. Occupations involved in the operation of elevators and other power-driven hoisting apparatus.
8. Occupations involved in the operation of power-driven metal forming, punching, and shearing machines.
9. Occupations in connection with mining other than coal.
10. Occupations in or about slaughtering and meatpacking establishments and rendering plants.
11. Occupations involved in the operation of certain power-driven bakery machines.
12. Occupations involved in the operation of certain power-driven paper-products machines.

---

[5] Federal Labor Laws and Programs, 1971 Employment Standards Administration, Division of Employment Standards, U.S. Department of Labor, Washington, D.C., pp. 87-88. U.S. Dept. of Labor.

13. Occupations involved in the manufacture of brick, tile and kin-dried products.

14. Occupations involved in the operation of circular saws, bandsaws, and guillotine shears.

15. Occupations involved in wrecking, demolition, and ship-breaking operations.

16. Occupations involved in roofing operations.

17. Occupations in excavation operations.[6]

The Secretary of Labor has also issued a list of hazardous occupations in agricultural businesses. To engage in any of these the minor must be at least 16:

1. Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting any implement or any of its parts to or from such a tractor.

2. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

   (i) Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;
   (ii) Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading machanism of a non-gravity-type self-unloading wagon or trailer; or
   (iii) Power post-hole digger, power post driver, or non-walking-type rotary tiller.

3. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

   (i) Trencher or earthmoving equipment;
   (ii) Fork lift;
   (iii) Potato combine; or
   (iv) Power-driven circular, band or chain saw.

4. Working on a farm, pen or stall occupied by a:

   (i) Bull, boar or stud horse maintained for breeding purposes; or
   (ii) Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

---

[6] Id. at 88.

5. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.

6. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

7. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

8. Working inside:

    (i) A fruit, forage, or grain storage designed to retain an oxygen-deficient or toxic atmosphere;
    (ii) An upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position;
    (iii) A manure pit; or
    (iv) A horizontal silo while operating a tractor for packing purposes.

9. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act. . .as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label;

10. Handling or using a blasting agent, including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cort; or

11. Transporting, transferring, applying anhydrous ammonia.[7]

Exempted from the Federal Child Labor Laws are children in any of the following categories:

Children under 16 years of age employed by their parents in occupations other than manufacturing or mining or occupations declared hazardous for minors under 18.

Children under 16 years of age employed by other than their parents in agriculture, if the occupation has not been declared hazardous and the employment is performed outside the hours schools are in session in the district where the minor lives while working.

Children employed as actors or performers in motion picture, theatrical, radio, or television productions.

---

[7] Id. at 88-90.

Children engaged in the delivery of newspapers to the consumer.

Homeworkers engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens).[8]

The restrictions and exemptions listed above from the Federal Act apply to interstate commerce. Restrictions and exemptions with respect to child labor in occupations wholly intra-state in character are governed by each jurisdiction's child labor laws. Today states basically follow the federal plan. The variations by jurisdiction are detailed in Tables 5A, 5B and 5C. Table 5A contains the general minimum age for child employment for each jurisdiction and the maximum age up to which an employment or age certificate is required. Minimum ages range from 14 to 16.

Ages for which an employment or age certificate is required range from 15 to 19 (for minors working in the mines or quarries of Alabama).

The Council of State Governments notes: "In almost all states the law provides that age certificates may be issued upon request for minors above the age indicated or, although not specified in the law, such certificates are issued in practice."[9]

No penalties are imposed on minors for working in prohibited occupations. Employers are penalized and the penalty may be a stiff one. An employer operating a business where the employment of minors is restricted must ask to see the employment or age certificate of a minor seeking employment. The employer accepts the minors' word or other evidence of age at the employer's peril.

The power to issue employment or age certificates is usually vested in a local official who will have the opportunity to investigate. Usually the official is one connected with the local school system, or one connected with the local office of the State Department of Labor. If the employer relies upon a certificate issued by an authorized official, the employer cannot be held liable for violating the wage and hour law even if a mistake has been made in the issuance of such document.

The wage and hour laws in the several jurisdictions restrict the hours minors may work. Restrictions on number of hours per day, hours per week and days per week are set out in Table 5B. Most jurisdictions have separate sets of regulations for minors under 16 and for those between 16 and 18. They also frequently set school day and school week maximum working hours which are considerably lower than those for vacation or weekend periods. During non-school days most states permit minors, even those under 16, to work eight hours a day.

---

[8] Id. at 88-90.

[9] The Council of State Governments, The Book of States 234 (1974).

Statutes prohibiting or regulating nightwork are detailed in Table 5C. As with the maximum days and hours statutes, nightwork statutes serve a dual function. They make sure there are free hours in the minor's day for sleep both so he will be able to function in school the next day and so that his health will not suffer.

## 2. Driving

All jurisdictions impose age restrictions for driving. States recognize the importance of older children being able to drive for work or school, but they also are interested in protecting the minor and others on the road. Most jurisdictions have found that they could accommodate these competing interests by setting a minimum age that is below the age of majority. Tables 5D, 5E and 5F detail the age and other restrictions on children trying to obtain motorcycle or automobile driver's licenses, the examination requirements, and the rules with respect to reciprocity of licenses from state to state.

### Age and Other Restrictions

Only four jurisdictions--Massachusetts, Montana, Ohio and Vermont--deny automobile driving licenses to minors. The youngest age at which a license can be obtained in normal circumstances is 15 (Mississippi and Louisiana). Thirty-six jurisdictions set the minimum age at 16. All but nine jurisdictions will issue learner's permits or junior licenses to qualify children beneath the minimum age for licensing. Typically the minimum age for obtaining a permit is a year to two years below the minimum age for a driver's license. In Montana a child as young as 13 can get a permit.

Twenty-three jurisdictions require minors (or in a few states, those under 16 or 17) to complete driver's education before applying for a license. Only Maine requires anyone applying for a driver's license to take this training. Some states require driver's education for all high school students.

All but 16 states require parental or other adult consent. The consent requirement is frequently tied to a statute which imposes liability on the person signing the license if the minor injures someone through negligence or willful misconduct while driving. Many statutes allow the signing adult to withdraw the driving privilege from the minor. The consent requirements thus function to (1) insure that there is a (potentially) financially responsible adult behind the minor driver, and (2) give that adult some control over the minor.

Another common restriction is that, at least during the period of holding a learner's permit or junior license, a child must be accompanied in the vehicle by a licensed driver. Provisions in some jurisdictions give the state a great deal of control over young drivers with permits or licenses; it is often easier to revoke or suspend a minor's license. In several jurisdictions the juvenile court is empowered to suspend licenses of delinquent or incorrigible offenders.[10]

---

[10] See Tables 6C and 6D, infra, on statutory jurisdiction of juvenile courts in delinquency or status offense matters.

In other jurisdictions the motor vehicle laws impose automatic suspension for minors in situations in which an adult's license would be unaffected.[11]

One group of restrictions resembles curfews in that it restricts the hours or the places in which a minor can drive, or the purposes for driving. For example, in Louisiana a driver under 17 cannot be driving on the public highways between the hours of 11 p.m. and 5 a.m. Kansas issues licenses to 14 to 16 year olds with the following restrictions: in an ordinance city, the child is only permitted to drive (a) between the hours of 7 a.m. and 7 p.m., on a direct route between home and school, or (2) any time with a parent or guardian who is a licensed driver sitting beside him.

### Licensure and Examination Requirements

All jurisdictions except Pennsylvania require a written test. (In some jurisdictions arrangements are made for those who cannot read.) All jurisdictions except Idaho require a driving test; in Idaho a driving test may be given at the discretion of the examiner. See Table 5E for details on other required tests.

### Sanctions

In a few jurisdictions any person who supplies a minor with a vehicle to drive knowing that the minor is unlicensed faces liability. The majority of sanctions, however, focus on the minor. States vary in the handling of juvenile traffic offenses (including driving without a license). Traffic violations had been the basis for jurisdiction of the juvenile court, but the trend is now to remove them from juvenile court. Arguments for handling traffic offenses in adult court include: traffic violations are not evidence of need for rehabilitation in the juvenile system, the administrative burden on juvenile court is heavy, adult court is appropriate because the juvenile is engaging in adult activity.

## 3. Drinking

Laws forbidding children below a certain age from purchasing and/or consuming alcoholic beverages have shown interesting patterns in the past ten years. For many years states resisted attempts to lower the age at which children could drink. The most common minimum age was 21. In the early 1970's several states, perhaps influenced by the lowered ages of majority and the age for voting that became popular, lowered the minimum age for drinking.

Today, only 25 states still set 21 as the minimum age. (See Table 5F.) Fourteen allow 18 year olds to purchase and consume liquor. Thirteen jurisdictions (those in which the minimum age is 20 or 21) have lower ages for the purchase and consumption of beer, 3.2 beer, light wine, or wine. The trend seems to have slowed down. In fact, in the last couple of years four states have raised the minimum drinking age in their states. It should be noted that freedom to drink is not tied to the age of majority. Though many jurisdictions have set the minimum at the age of majority more than half have drinking ages above the age of majority.

---

[11] See, e.g., Cal. Veh. Code Sec. 12512 (West 1976); Ind. Code Ann. Sec. 9-1-4-33(2)(k) (Burns 1979).

States continue to regulate drinking heavily because of fears both that children will become heavy drinkers damaging their health, and that drinking children are more likely to get into automobile accidents or to become involved in juvenile crime. Both the sellers and the purchasers are regulated by state law and local ordinance. Minors who violate alcoholic beverage laws will be subject to the jurisdiction of the juvenile court in most states. Adults will face criminal penalties. Less than half the states have express exemptions for alcoholic beverages provided by parents or consumed at home or in the presence of the parents. A few states have similar exemptions for spouses of minors. The trend has been to decrease parental exemptions, reducing parental decisionmaking power in this area.

### 4. Use of Tobacco Products

Even before the serious health risks from smoking tobacco became generally known, it was thought necessary to restrict children's access to tobacco products. Today 14 states have statutes which prohibit children from either purchasing tobacco, or using it in public places. See Table 5H for details. In nine states children below the age of majority are the subjects of the statute; in the other states the minimum age ranges from 14 to 17. In two states the forbidden conduct is misrepresenting age in order to purchase the products. In four states the decision is left up to parents because children can purchase tobacco with written parental permission.

The major effort in attempting to curb tobacco use by children is directed at those who provide the tobacco products rather than at the children as purchasers. Forty-three states have statutes which regulate sale or distribution to children. See Table 5G for details. The statutes are frequently quite broad. The Florida statute, for example, provides: "No person shall sell, barter, furnish or give away, directly or indirectly, to any minor, any cigarette, cigarette wrapper or any substitute for either. . . ."[12] Violation of this statute is a misdemeanor. Again, the majority of statutes speak of minors or use the age of majority as the minimum age. Two states set the age as low as 15, eight set the age at 16. In the past five years three states (Indiana, Missouri and Ohio) have repealed their statutes.

One interesting inequality exists. In those 30 states where there is no statute regulating the minor's conduct one child might be breaking the law by furnishing a cigarette to another. The recipient, however, would not be violating any law. Even in a jurisdiction which regulates the conduct of the minor the recipient would only be a status offender because he comes to the attention of the court for violating a statute that pertains only to minors. The furnishing minor would come within the delinquency jurisdiction of the juvenile court. As a practical matter, though, neither the police nor the juvenile court is likely, absent parental insistence, to be interested in intervening with a minor for a tobacco-related violation, be it furnishing or receiving.

---

[12] Fla. Stat. Ann. Sec. 22A 859.06 (West 1976).

## 5. Participation in the Political Process

Children below a certain age are forbidden to participate in some activities not so much because of danger that minors will be harmed but because minors lack the competence for such participation. Children's freedom to participate in the political process has been limited in several areas because of fear that children could not intelligently and responsibly exercise rights to participate. Each jurisdiction has, for example, set minimum ages at which children may vote, serve on juries and run for public office.

Age-based limits are, of course, inexact. Some who are not competent to participate are included; some who are competent are excluded. While this is true of all age-based lines this inexactitude is bothersome in the area of political activity. While many would agree that it is no great burden to make children wait a few years to drink or smoke, keeping children out of a process which allows them representation in decisionmaking that will affect them is more burdensome.

The argument against individualized determinations of which older children are actually competent to make a contribution is that of administrative burden: it would simply be too great a task. Determination of competency must turn on class assessment. In the early 70's class assessment did lead to a decision that the 18 to 21 year old group was capable of intelligent and responsible exercise of the right to vote. To integrate this into the political process Congress passed the 26th Amendment. Adopted in 1971, the amendment states that "the right of citizens of the United States, who are 18 years of age or older, to vote shall not be denied or abridged by the United States or any state on account of age." The amendment set the minimum age for federal elections. Many states followed the federal lead and lowered the minimum age for voting in state elections to 18. Today, only two states, New Mexico and Utah, retain 21 as the minimum age. Alabama and Alaska set the age at 19.

It is interesting that though the minimum age for voting has been lowered, age as a criterion has been retained. Competence to vote is not an issue when we are discussing adults; mentally ill adults, alcoholics, illiterates or those with poor judgment are allowed to vote. Yet for children competency is required. And 18 is the age at which children are judged to be competent.

Another way of participating in the community decisionmaking is by jury service. Twelve states now allow juries in juvenile trials. No state allows minors to serve on juries. In nine states the minimum age for participating is set at 21, higher than the age of majority. A final age-based line in the political process is that for serving in political office. Table 5I gives minimum age requirements for general public office. Some offices such as elected state and federal legislators have even higher age requirements.

## TABLE 5A

## CHILD LABOR LAWS

| STATE | BASIC MINIMUM AGE | EMPLOYMENT AGE CERTIFICATE REQUIRED TO AGE INDICATED | MINIMUM AGE FOR AGRICULTURAL EMPLOYMENT OUTSIDE SCHOOL HOURS |
|---|---|---|---|
| Alabama | 16 | 17; 19 in mines and quarries | - - - - |
| Alaska | 16 | 18 | 14 |
| Arizona | 14 | * | - - - - |
| Arkansas | 14 | 16 | 14 |
| California | 15 | 18 | 14 (12 during vacation and on regular school holidays) |
| Colorado | 16 | 16 | 12 |
| Connecticut | 16 | 18 | 14 (no minimum in weeks when average number of employees is 15 or fewer) |
| Delaware | 14 | 18 | - - - - |
| District of Columbia | 14 | 18 | 14 |
| Florida | 14 | 18 | - - - - |
| Georgia | 16 | 18 | - - - - |
| Guam | 16 | 16 | - - - - |
| Hawaii | 16 | 18 | Note a |
| Idaho | 14 | ** | - - - - |
| Illinois | 16 | 16 | 10 |
| Indiana | 14 | 17 | 12 |
| Iowa | 16 | 16 | Note b |
| Kansas | 14 | 16 Note c | - - - - |
| Kentucky | 16 | 18 | - - - - |
| Louisiana | 16 | 18 | - - - - |

* Proof of age not mandatory under state law. Federal officials issue certificates in Mississippi, South Carolina, Texas.

NOTES:

a) 12 (10 in coffee harvesting on non-school days under direct parental supervision with specified hours standard).

b) 14 (for migrants; 14 before school day in available school, 12 at other times. No minimum for part-time work by non-migrants.)

c) Proof of age is not mandatory for minors enrolled in secondary school.

## TABLE 5A

## CHILD LABOR LAWS

| STATE | BASIC MINIMUM AGE | EMPLOYMENT AGE CERTIFICATE REQUIRED TO AGE INDICATED | MINIMUM AGE FOR AGRICULTURAL EMPLOYMENT OUTSIDE SCHOOL HOURS |
|---|---|---|---|
| Maine | 16 | 16 | - - - - |
| Maryland | 16 | 18 | - - - - |
| Massachusetts | 16 | 18 | - - - - |
| Michigan | 14 | 18 | - - - - |
| Minnesota | 14 | 18 | 14 |
| Mississippi | 14 | * | - - - - |
| Missouri | 14 | 16 | 14 (no minimum for occasional work with parental consent) |
| Montana | 16 | 18 | - - - - |
| Nebraska | 14 | 16 | - - - - |
| Nevada | 14 | 17 Note d | - - - - |
| New Hampshire | 16 | 18 | 12 |
| New Jersey | 16 | 18 | 12 |
| New Mexico | 14 | 16 | - - - - |
| New York | 16 | 18 | Note e |
| North Carolina | 16 | 18 | - - - - |
| North Dakota | 14 | 16 | - - - - |
| Ohio | 16 | 18 | - - - - |
| Oklahoma | 14 | 16 | - - - - |
| Oregon | 14 | 18 | Note f |
| Pennsylvania | 16 | 18 | - - - - |
| Puerto Rico | 16 | 18 | 14 |
| Rhode Island | 16 | 16 | - - - - |

* Proof of age not mandatory under state law. Federal officials issue certificates in Mississippi, South Carolina, Texas.

NOTES:

d) Proof of age is not mandatory for employment outside school hours.

e) 14 (12 on home farm for parents, and in hand harvest of berries, fruits, and vegetables with parental consent under specific hours standards.)

f) No minimum age for agricultural employment outside school hours, except for a 9-year minimum in harvesting berries and beans for intrastate commerce under specified circumstances; applicable only to employment subject to FLSA.

TABLE 5A

CHILD LABOR LAWS

| STATE | BASIC MINIMUM AGE | EMPLOYMENT AGE CERTIFICATE REQUIRED TO AGE INDICATED | MINIMUM AGE FOR AGRICULTURAL EMPLOYMENT OUTSIDE SCHOOL HOURS |
|---|---|---|---|
| South Carolina | 16 | * | - - - - |
| South Dakota | 14 | 16 | - - - - |
| Tennessee | 14 | 18 | - - - - |
| Texas | 15 | 15 | 14 (no minimum from June 1 to September 1.) |
| Utah | 16 | * | 12 (no minimum if with parental consent.) |
| Vermont | 14 | 16 Note g | - - - - |
| Virginia | 16 | 18 | 14 (no minimum if with parental consent.) |
| Virgin Islands | 14 | 16 | - - - - |
| Washington | 14 | 18 | Note h |
| West Virginia | 16 | 16 | - - - - |
| Wisconsin | 16 | 18 | 12 |
| Wyoming | 16 | 16 | - - - - |

* Proof of age not mandatory under state law. Federal officials issue certificates in Mississippi, South Carolina, Texas.

NOTES:

g) Proof of age is not mandatory for employment outside school hours.
h) The child labor law exempts all agricultural employment from its coverage. However, a separate provision in the statute relating to agriculture generally, expressly permits outside-school-hour employment of minors under 12 in harvesting berries for intrastate commerce under specified circumstances applicable only to employment subject to FLSA.

## TABLE 5B

## MAXIMUM DAYS, HOURS PER DAY, AND WEEK OF EMPLOYMENT FOR CHILDREN OF SPECIFIED AGES

| STATE | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | COMMENTS |
|---|---|---|---|---|---|---|---|---|---|
| Federal FLSA | Under 16 | 8 | 40 | | | | | | 3 hrs. on school day;<br>18 hrs. in school week |
| Alabama | Under 16 | 8 | 40 | 6 | | | | | 4 hrs. on school day;<br>28 hrs. in school week |
| Alaska | Under 16 | 8 | 40 | 6 | 16, 17 | 8 | 40 | 6 | 9 hrs. school day;<br>23 hrs. school week of combined school/work |
| Arizona | Under 16 | 8 | 40 | | | | | | 3 hrs. on school day;<br>18 hrs. in school week |
| Arkansas | Under 16 | 8 | 48 | 6 | 16, 17 | 10 | 54 | 6 | |
| California | Under 18 | 8 | 48 | 6 | | | | | 4 hrs. on school day;<br>18 hrs. in school week |
| Colorado | Under 18 | 8 | 40 | | | | | | 6 hrs. on school day |
| Connecticut | Under 18 | 9 | 48 | | | | | | Note a |

NOTES:

a) Under 18 in stores or 14 - 16 in agriculture; 8 hrs. day; 48 hrs. week; 6 days.

TABLE 5B

MAXIMUM DAYS, HOURS PER DAY, AND WEEK OF EMPLOYMENT FOR CHILDREN OF SPECIFIED AGES

| STATE | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | COMMENTS |
|---|---|---|---|---|---|---|---|---|---|
| Delaware | Under 16 | 8 | 48 | 6 | | | | | |
| District of Columbia | Under 18 | 8 | 48 | 6 | | | | | |
| Florida | Under 16 | 10 | 40 | 6 | | | | | 4 hrs. on school day before school day |
| Georgia | Under 16 | 8 | 40 | | | | | | Over 16, in cotton and wool factories; under 16, 4 hrs. on school days |
| Guam | 14 | | 48 | | | | | | |
| Hawaii | Under 16 | 8 | 40 | 6 | Under 16 | Comment | Comment | Comment | 10 hrs. combined work and school on school days |
| Idaho | Under 16 | 9 | 54 | | | | | | |
| Illinois | Under 16 | 8 | 48 | 6 | | | | | 3 hrs. on school day; 8 hrs. combined work and school on school day |

TABLE 5B

MAXIMUM DAYS, HOURS PER DAY, AND WEEK OF EMPLOYMENT FOR CHILDREN OF SPECIFIED AGES

| STATE | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | COMMENTS |
|---|---|---|---|---|---|---|---|---|---|
| Indiana | Under 17 | 8 | 40 | 6 | | | | | Note b |
| Iowa | Under 16 | 8 | 40 | | | | | | 4 hrs. on school day;<br>28 hrs. in school week |
| Kansas | Under 16 | 8 | 40 | | | | | | |
| Kentucky | Under 16 | 8 | 40 | | 16, 17 | 10 | 60 | | Note c |
| Louisiana | Under 16 | 8 | 44 | 6 | | | | | 3 hrs. on school day |
| Maine | Under 16 | 8 | 48 | 6 | | | | | 4 hrs. on school day;<br>28 hrs. in school week |
| Maryland | Under 16 | 8 | 40 | 6 | 16, 17 | 12 work & school | | | 4 hrs. on school day;<br>23 hrs. in school week |

NOTES:

b) Minors of 16 not attending school permited to work 8-40-6. Minors attending school may work 9-48 during summer vacations and before school day if 16. If under 16, 3 on school day, 23 in school week.

c) If under 16, 8-40 on nonschool days and weeks. 3-18 on school days and weeks. 16, 17 attending school, 4 on school day, 8 on Friday or nonschool day, 32 in school week. 16, 17

## TABLE 5B

## MAXIMUM DAYS, HOURS PER DAY, AND WEEK OF EMPLOYMENT FOR CHILDREN OF SPECIFIED AGES

| STATE | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | COMMENTS |
|---|---|---|---|---|---|---|---|---|---|
| Massachusetts | Under 16 | 8 | 48 | 6 | 16, 17 | 9 | 48 | 6 | Under 14, farm work: 4 hrs. per day, 24 hrs. per week |
| Michigan | Under 18 | 10 | 48 | 6 |  |  |  |  | School week 48 hrs. work and school |
| Minnesota | Under 16 | 8 | 40 |  |  |  |  |  |  |
| Mississippi | Under 16 | 8 | 44 |  |  |  |  |  | 10 hrs. per day for employees over 16 in mills, etc. |
| Missouri | Under 16 | 8 | 40 | 6 |  |  |  |  |  |
| Montana |  |  |  |  |  |  |  |  |  |
| Nebraska | Under 16 | 8 | 48 |  |  |  |  |  |  |
| Nevada | Under 16 | 8 | 48 |  |  |  |  |  |  |

TABLE 5B

## MAXIMUM DAYS, HOURS PER DAY, AND WEEK OF EMPLOYMENT FOR CHILDREN OF SPECIFIED AGES

| STATE | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | COMMENTS |
|---|---|---|---|---|---|---|---|---|---|
| New Hampshire | 16 | 8 | 48 | | 16, 17 | 10 1/4 | 54 | | Note d |
| New Jersey | Under 18 | 8 | 40 | 6 | | | | | School day 8 hrs. combined school and work |
| New Mexico | Under 14 | 8 | 44 | | | | | | 48 hrs. per week in special cases |
| New York | Under 16 | 8 | 40 | 6 | 16, 17 | 8 | 48 | 6 | Under 16, 3 hrs per day, 23 hrs. per week; 16 attending school, 4 hrs per day, 28 hrs. per week |
| North Carolina | Under 16 | 8 | 40 | 6 | 16, 17 | 9 | 48 | 6 | Under 16, 8 hrs. combined work and school on school day |
| North Dakota | Under 18 | 8 | 48 | 6 | | | | | Under 16, 3 hrs. per school day, 24 hrs. per school week |
| Ohio | Under 18 | 8 | 48 | 6 | | | | | 14-16, 9 hrs. work plus school; under 14, 4 hrs. per school day |

NOTES:

d) 16 enrolled in school: 3 on school day, 23 in school week, 48 during vacation. Under 16 and not enrolled in school and 16-17: 10-48 hours at manual or mechanical labor in manufacturing; 10 1/4-54 at such labor in other employment.

TABLE 5B

MAXIMUM DAYS, HOURS PER DAY, AND WEEK OF EMPLOYMENT FOR CHILDREN OF SPECIFIED AGES

| STATE | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | COMMENTS |
|---|---|---|---|---|---|---|---|---|---|
| Oklahoma | Under 16 | 8 | 48 | | | | | | |
| Oregon | Under 16 | 10 | 44 | 6 | 16, 17 | | 44 | | |
| Pennsylvania | Under 18 | 8 | 44 | 6 | | | | | Under 16 in school, 4 hrs. per day, 18 hrs. per week; 16, 17, 28 hrs. per week |
| Puerto Rico | Under 18 | 8 | 40 | 6 | Minor | | | | Minor in school; school day, 8 hrs work plus school |
| Rhode Island | Under 16 | 8 | 40 | | 16, 17 | 9 | 48 | | |
| South Carolina | Over 16 | 10 | 55 | | | | | | In cotton and woolen manufacturing plants |
| South Dakota | Under 16 | 8 | 40 | | 16, 17 | | | | |
| Tennessee | Under 16 | 8 | 40 | 6 | | 10 | 48 | 6 | Under 16, 3 hrs. per school day, 18 hrs per week; 16, 17, 6 hrs. per day, 36 hrs. per week |

TABLE 5B

MAXIMUM DAYS, HOURS PER DAY, AND WEEK OF EMPLOYMENT FOR CHILDREN OF SPECIFIED AGES

| STATE | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | AGE | HOURS PER DAY | HOURS PER WEEK | DAYS PER WEEK | COMMENTS |
|---|---|---|---|---|---|---|---|---|---|
| Texas | Under 15 | 8 | 48 | | | | | | |
| Utah | Under 16 | 8 | 40 | | | | | | 4 hrs. on school day |
| Vermont | Under 16 | 8 | 48 | 6 | 16, 17 | 9 | 50 | | |
| Virginia | Under 18 | 8 | 40 | 6 | | | | | |
| Washington | Under 18 | 8 | 40 | 5 | | | | | Under 16, 3 hrs. per school day, 18 hrs. per school week |
| West Virginia | Under 18 | 8 | 40 | 6 | | | | | |
| Wisconsin | Under 16 | 8 | 24 | 6 | 16, 17 | 8 | 40 | 6 | Under 16: 8-40-6 during school vacations; 16-17: 8-48-6 during school vacations |
| Wyoming | Under 16 | 8 | | | | | | | |

## TABLE 5C

## NIGHTWORK PROHIBITIONS FOR CHILDREN IN THE LABOR FORCE

| STATE | AGE | PROHIBITED HOURS | AGE | PROHIBITED HOURS | COMMENTS |
|---|---|---|---|---|---|
| Federal (FLSA) | Under 16 | 7 p.m. - 9 a.m. | | | 9 p.m. June 1 through Labor Day |
| Alabama | Age 16 | 8 p.m. - 7 a.m. | | | |
| Alaska | Under 16 | 7 p.m. - 6 a.m. | | | |
| Arizona | Under 16 | 9:30 p.m. - 6 a.m. | | | |
| Arkansas | Under 16 | 7 p.m. - 6 a.m. | 16, 17 | 11 p.m. - 6 a.m. | Under 16, 9 p.m. before non-school day; 16-18, 10 p.m. before school day |
| California | Under 18 | 10 p.m. - 5 a.m. | | | 12:30 a.m. before non-school day |
| Colorado | Under 16 | 9:30 p.m. - 5 a.m. | | | Before school day only |
| Connecticut | Under 18 | 10 p.m. - 6 a.m. | | | Note a |
| Delaware | Under 16 | 7 p.m. - 6 a.m. | | | 9 p.m. in stores Friday, Saturday and vacations |
| District of Columbia | Under 16 | 7 p.m. - 7 a.m. | 16, 17 | 10 p.m. - 6 a.m. | 9 p.m. June 1 through Labor Day |
| Florida | Under 16 | 9 p.m. - 6:30 a.m. | 16, 17 | 11 p.m. - 5 a.m. | Under 16: 11 p.m. before non-school day. 16,17: 1 a.m. before non-school day |
| Georgia | Under 16 | 9 p.m. - 6 a.m. | | | |
| Guam | Under 18 | After 7 p.m. | | | On school day |
| Hawaii | Under 16 | 7 p.m. - 7 a.m. | | | 9 p.m. - 6 a.m. June 1 through Labor Day |
| Idaho | Under 16 | 9 p.m. - 6 a.m. | | | |
| Illinois | Under 16 | 7 p.m. - 7 a.m. | | | 9 p.m. June 1 through Labor Day |
| Indiana | Under 16 | 7 p.m. - 6 a.m. | | | Under 16: 9 p.m. before non-school day |
| Iowa | Under 16 | 10 p.m. - 7 a.m. | | | Midnight before non-school day Also, 16 yr. old enrolled in school |
| Kansas | Under 16 | 10 p.m. - 7 a.m. | | | Before school day only |
| Kentucky | | | | | Note b |

NOTES:

a) Midnight to 6 a.m. if 16 or 17 in restaurant, or as usher in non-profit theater, before non-school day and if not attending school.

b) Under 16: 7 p.m. - 7 a.m. (9 p.m. June 1 through Labor Day) 16, 17: 10 p.m. - 6 a.m. if attending school (midnight on Friday, Saturday and during vacation).

## TABLE 5C

## NIGHTWORK PROHIBITIONS FOR CHILDREN IN THE LABOR FORCE

| STATE | AGE | PROHIBITED HOURS | AGE | PROHIBITED HOURS | COMMENTS |
|---|---|---|---|---|---|
| Louisiana | Under 16 | 10 p.m. - 6 a.m. | | | |
| Maine | Under 16 | 9 p.m. - 7 a.m. | | | |
| Maryland | Under 16 | 8 p.m. - 7 a.m. | | | |
| Massachusetts | Under 16 | 6 p.m. - 6:30 a.m. | 16, 17 | Note c | Under 16: 9 p.m. - 6/1-9/1 |
| | | | 16, 17 | 10 p.m. - 6 a.m. | 16, 17: Midnight restaurants, Friday, Saturday and vacations |
| Michigan | Under 16 | 9 p.m. - 7 a.m. | 16, 17 | 10:30 p.m - 6 a.m. if attending school | 16, 17: 11:30 p.m. - 6 a.m. if not attending school |
| Minnesota | Under 16 | 9:30 p.m. - 7 a.m. | | | |
| Mississippi | Under 16 | 7 p.m. - 6 a.m. | | | 10 p.m. before non-school day and for minors not enrolled in school |
| Missouri | Under 16 | 7 p.m. - 7 a.m. | | | Under 16: 10 p.m. before school days and for minors not enrolled in school |
| Montana | | | | | |
| Nebraska | Under 14 | 8 p.m. - 6 a.m. | 14, 15 | 10 p.m. - 6 a.m. | Beyond midnight for 14, 15 on special permit |
| Nevada | | | | | |
| New Hampshire | Under 16 | 9 p.m. - 7 a.m. | | | If enrolled in school |
| New Jersey | Under 16 | 6 p.m. - 7 a.m. | 16, 17 | 10 p.m. - 6 a.m. | 16, 17: Midnight in restaurant before non-school day and vacations. Note d. |
| New Mexico | Under 14 | 9 p.m. - 7 a.m. | | | |
| New York | Under 16 | 7 p.m. - 7 a.m. | 16, 17 | Midnight - 6 a.m. | Under 16: 9 p.m. when school not in session |

NOTES:

c) 16, 17 must have 9 hours of non-work, non-school time in each 24-hour day.
d) Except boys 16, 17, in non-factory establishments during vacations.

## TABLE 5C

## NIGHTWORK PROHIBITIONS FOR CHILDREN IN THE LABOR FORCE

| STATE | AGE | PROHIBITED HOURS | AGE | PROHIBITED HOURS | COMMENTS |
|---|---|---|---|---|---|
| North Carolina | Under 16 | 7 p.m. - 7 a.m. | 16, 17 | Midnight - 6 a.m. | Under 16: 9 p.m. when school not in session |
| North Dakota | Under 16 | 7 p.m. - 7 a.m. | | | 9 p.m. June 1 through Labor Day |
| Ohio | Under 16 | 6 p.m. - 7 a.m. | 16, 17 | 10 p.m. - 6 a.m. | Under 16: 10-6 before non-school day; 16, 17 before non-school day |
| Oklahoma | Under 16 | 6 p.m. - 7 a.m. | | | |
| Oregon | Under 16 | 6 p.m. - 7 a.m. | | | 10 p.m. with special permit |
| Pennsylvania | Under 16 | 7 p.m. - 7 a.m. | 16, 17 | 11 p.m. - 6 a.m. if enrolled in school | Under 16: 10 p.m. during vacation - June to Labor Day 16, 17: Midnight before non-school day |
| Puerto Rico | Under 16 | 6 p.m. - 8 a.m. | 16, 17 | 10 p.m. - 6 a.m. | |
| Rhode Island | Under 16 | 7 p.m. - 6 a.m. | 16, 17 | 11 p.m. - 6 a.m. | |
| South Carolina | Under 16 | 8 p.m. - 5 a.m. | 16, 17 | | 11 p.m. before non-school day; stores, domestic service, farmwork |
| South Dakota | Under 14 | After 7 p.m. | | | Mercantile establishments only |
| Tennessee | Under 16 | 7 p.m. - 7 a.m. | 16, 17 | 10 p.m. - 6 a.m. if enrolled in school | Under 16: Midnight Friday, Saturday from June 1 to September 1. 16, 17 not in school: midnight to 6 a.m. |
| Texas | Under 15 | 10 p.m. - 5 a.m. | | | |
| Utah | Under 16 | 9:30 p.m. - 5 a.m. | | | Only before a school day |
| Vermont | Under 16 | 7 p.m. - 6 a.m. | | | |
| Virgin Islands | | | | | |
| Virginia | Under 16 | 6 p.m. - 7 a.m. | 16, 17 | Midnight - 5 a.m. | Under 16: 10 p.m. non-school day |
| Washington | Under 16 | 7 p.m. - 7 a.m. | 16, 17 | After 9 p.m. | Under 16: 9 p.m. during summer vacation. |
| West Virginia | Under 16 | 8 p.m. - 5 a.m. | | | |
| Wisconsin | Under 16 | 8 p.m. - 7 a.m. | | | Note e |
| Wyoming | Under 16 | 10 p.m. - 5 a.m. | 16, 17 | Midnight - 5 a.m. female only | Under 16: Midnight before non-school day and minors not enrolled |

NOTES:

e) Under 16: 9:30 p.m. before schoolday. 16, 17 if required to attend school: 12:30 a.m. to 6 a.m. except where under direct adult supervision and provided minor gets 8 hours of rest between end of workday and school day

TABLE 5D

MOTOR VEHICLE OPERATORS LICENSURE LAWS APPLICABLE TO JUVENILES

| STATE | MINIMUM LICENSE AGE | LEARNER'S PERMIT AGE | MOTORCYCLE INFORMATION | NOTES |
|---|---|---|---|---|
| Alabama | 16 | 15 | Special license required under 16. | At 14 cycle license restricted to motor-driven cycle 5 h.p. - 200 lb. maximum. |
| Alaska | 16 | no age | Reflectorized helmet required for under 19 | Under 18, written consent required from parent or guardian. |
| Arizona | 18 | 15 years, 17 mos. | Any person under 18 required to wear helmet. | License issued at 16 if notarized consent from both parents or guardian. |
| Arkansas | 14 | 30 days prior to driving test | -- | 14-16, driver must be accompanied by licensed adult; 14-18 application for license must be signed by parent or guardian. |
| California | 18 | 17-1/2 | -- | Minimum age 16 if driver education course completed. Instruction permit at 15 if have taken or are taking driver education and training course. Driver with instruction permit must be accompanied by California licensed operator 18 years or older. |
| Colorado | 21 | 3 mos. prior to 16th birthday | -- | 18 for provisional driver's license; 16 for minor's license. |
| Connecticut | 16 | no age | Learner's permit required | Under 18 must have completed driver training course or provide evidence of being taught by parent, grandparent, guardian or adult spouse for at least 2 years. |
| Delaware | 16 | 2 mos. prior to 16th b'day after completing driver ed. course. | Persons 18 and younger must wear a helmet | Applicants between 16-18 must have completed driver education course. Learner must be accompanied by licensed driver to operate vehicle. |

TABLE 5D

MOTOR VEHICLE OPERATORS LICENSURE LAWS APPLICABLE TO JUVENILES

| STATE | MINIMUM LICENSE AGE | LEARNER'S PERMIT AGE | MOTORCYCLE INFORMATION | NOTES |
|---|---|---|---|---|
| District of Columbia | 16 | 16 | -- | Written permission of parents or guardians for applicants under 18. |
| Florida | 16 | no age | -- | Restricted license at 15. Applicants 15-18 years must have signed by either father, mother or guardian. |
| Georgia | 16 | no age | -- | Class one license at 15. Licenses issued to persons under 18 have red bar across top of license and require parental consent to obtain |
| Hawaii | 15 | no age | Safety helmets required for those under 18 | Persons 15-24 get two-year licenses. All others 4 years. If under 18 must have parent's or guardian's consent. |
| Idaho | 16 | no age | Safety helmet required if under 18 | Restricted licenses for minors 14 and 15 completing driver education course. |
| Illinois | 18 | no age | -- | License at 16 if approved driver education course completed. Unmarried applicants under 18 need consent of parent or guardian. |
| Indiana | 16-1/2 | 16 | -- | License at 16 years, one month, if driver education course satisfactorily completed. Permit holders must be accompanied by licensed driver over 18. Permit issued to 15-year-old if enrolled in high school or approved driver education course. |
| Iowa | 18 | 14 | Moped license at 14 | License at 16 if approved course in driver education completed. |
| Kansas | 16 | no age | -- | Restricted license at 14-16 allows operator to drive vehicle at any time: to or from or in connection with any job or employment; on days while school is in session, over the most direct and accessible route between the licensee's residence and his or her school of attendance; when such licensee is operating a passenger car, at any time when an adult holder of license is occupying a seat beside driver. |

TABLE 5D

MOTOR VEHICLE OPERATORS LICENSURE LAWS APPLICABLE TO JUVENILES

| STATE | MINIMUM LICENSE AGE | LEARNER'S PERMIT AGE | MOTORCYCLE INFORMATION | NOTES |
|---|---|---|---|---|
| Kentucky | 16 | no age | -- | Parent's or guardian's signature required for persons under 18. |
| Louisiana | 15 | no age | Protective helmet required if 18 or younger | All persons under 17 are prohibited from operating motor vehicle between 11 p.m. and 5 a.m. |
| Maine | 17 | Allows applicant to drive with licensed driver 18 and older | -- | License at 15 if approved driver education course completed. |
| Maryland | 18 | 15 years, 9 mos. | Special moped license issued to persons over 16 who do not have a driver's license | License at 15 yrs., 9 mos. if an approved driver education course has been passed. Under 18 must have parent's consent. Holders of learner's permits must be accompanied by someone 21 years of age and a licensed driver for at least three years. |
| Massachusetts | 17 | 16 | -- | License at 16-1/2 if approved driver education course passed. Under 18 parental consent is required and junior operator's license is issued which prohibits licensee from driving between 1 a.m. and 5 a.m. unless accompanied by parent or legal guardian. |
| Michigan | 18 | Instruction permit required for 30 days before one can apply for license | -- | License at 16 if approved driver education course completed. Restricted license for one year issued at 14 in extenuating circumstances. If under 18 need consent of parent or guardian. License may be cancelled upon written request of parent or guardian. |
| Minnesota | 18 | no age | Safety helmet required for persons under 18 | License at 16 if applicant has completed driver ed. course. Provisional license 16-18 expires on 18th birthday at which time licensee may be eligible to receive regular driver's license without additional examination. |

TABLE 5D

MOTOR VEHICLE OPERATORS LICENSURE LAWS APPLICABLE TO JUVENILES

| STATE | MINIMUM LICENSE AGE | LEARNER'S PERMIT AGE | MOTORCYCLE INFORMATION | NOTES |
|---|---|---|---|---|
| Mississippi | 15 | no age | -- | |
| Missouri | 16 | no age | -- | Applicant enrolled in school driver training program may operate motor vehicle while learning under school supervision at 15 |
| Montana | 16 | no age | Safety helmets required for persons under 18 | License at 15, if applicant has passed an approved course in driver education. Parent's consent necessary for those under 18. Provisional licenses issued to applicants under 18 |
| Nebraska | 16 | 15 | Permit required | 14 for school permit. Operator with learner's permit must be accompanied by licensed driver at least 19 and have learner's permit in possession. |
| Nevada | 16 | 15-1/2 | -- | Consent of parent or guardian needed for under 18. |
| New Hampshire | 18 | Required for motorcycles only | Safety helmet if under 18 yrs. old | License at 16 if an approved driver education course has been completed. Unlicensed person being taught to drive must be accompanied by person who is properly licensed and is 21 yrs. of age or over. |
| New Jersey | 17 | -- | -- | License for agricultural pursuit at 16 - bus driver license, 18 with at least 3 yrs. driving experience. Holder of learner's permit must be accompanied by licensed driver. |
| New Mexico | 16 | 15 | Reflectorized helmet for persons under 18. | License at 15 for driver education course graduates. Learner's permit may be used only while accompanied by license driver. Restricted instruction permit, minimum age 14 only while enrolled in an approved high school driver education course and restricted to use only while accompanied by approved driver education instructor. Valid for one school year. |

## TABLE 5D

## MOTOR VEHICLE OPERATORS LICENSURE LAWS APPLICABLE TO JUVENILES

| STATE | MINIMUM LICENSE AGE | LEARNER'S PERMIT AGE | MOTORCYCLE INFORMATION | NOTES |
|---|---|---|---|---|
| New York | 18 | 16 | -- | 17-year-old may apply for regular license if he has successfully completed an approved New York State High School Driver Education course. Junior license at 16. Consent of parent or guardian required. Authorizes holder to operate passenger cars and trucks with a maximum gross weight of not more than 18,000 lbs. May operate these vehicles alone during the hours of daylight and at night when accompanied by a parent or guardian. Also may drive alone during the hours of darkness (from 9 p.m. to 5 a.m.) on a direct route between his home and school for credit-bearing classes, credit-bearing activity or to place of business. Not permitted to drive at anytime within New York City or Nassau County, with one Nassau County exception in work-study programs. |
| North Carolina | 18 | 15 | -- | Chauffeur's license at 18. License at 16 if successfully completed an approved course in driver education. Application must be signed by parent, guardian, employer or other responsible person. Applicant for learner's permit must complete approved course in driver education and be accompanied by licensed parent or guardian. |
| North Dakota | 16 | no age | Safety helmet for persons under 18 | Restricted junior license at 14-15 when need for license is shown by parent or guardian and when child has a certificate showing completion of an approved driver education course. |
| Ohio | 16 | no age | Safety helmet if under 18. | Probationary license to persons 16-18, provided applicant has completed approved driver ed. course. Restricted license issued to person 14-15 upon proof of hardship satisfactory to the registrar of motor vehicles. Holders of permit must be accompanied by licensed operator. |

TABLE 5D

MOTOR VEHICLE OPERATORS LICENSURE LAWS APPLICABLE TO JUVENILES

| STATE | MINIMUM LICENSE AGE | LEARNER'S PERMIT AGE | MOTORCYCLE INFORMATION | NOTES |
|---|---|---|---|---|
| Oklahoma | 16 | no age | Special license for persons 14-16 restricted as to speed, horsepower and hours used. | License at 15-1/2 for driver education students. Learner's operator's license issued through high school driver education. |
| Oregon | 16 | 15 | Helmet required for operators and passengers under 18 yrs. | Student permit issued at 14 under special conditions. |
| Pennsylvania | 18 | no age | -- | License at 17 if approved course in driver ed. has been completed. Junior permit at 16 issued with consent of parent. A junior operator is prohibited from driving 12 a.m. to 5 a.m. unless he has in his possession an affidavit from his employer or is accompanied by a parent or spouse 18 yrs. or older. |
| Rhode Island | 16 | no age | -- | |
| South Carolina | 16 | 15 | -- | Holder of learner's permit must be accompanied by licensed driver over 21. |
| South Dakota | 16 | 14 | Safety helmet required for persons under 18. | Permit valid for 6 a.m. to 7 p.m.; valid from 7 p.m. to 6 a.m. if driver is accompanied by licensed driver in front seat. |
| Tennessee | 16 | 15 | -- | |
| Texas | 18 | -- | Helmet required for operators or passengers under 18 | License at 16 if approved Driver Education Course completed. Department of Public Safety may issue license to person over 15, if hardship conditions make it necessary. Operator's instruction permit issued to driver education student at 15 when accompanied by licensed driver over 18 or driver education instruction. |
| Utah | 16 | no age | -- | If not previously licensed, an approved course in driver education must be completed. |

TABLE 5E

MOTOR VEHICLES OPERATORS LICENSURE LAWS APPLICABLE TO JUVENILES

| STATE | MINIMUM LICENSE AGE | LEARNER'S PERMIT AGE | MOTORCYCLE INFORMATION | NOTES |
|---|---|---|---|---|
| Vermont | 18 | 15 | -- | Junior license at 16. 15-year-old must be accompanied by a licensed operator 25 yrs. of age or a school driver training instructor. Age 16 and over must be accompanied by a licensed operator 18 yrs of age or older. |
| Virginia | 18 | 15 yrs. 8 mos. | -- | License at 16 if approved driver education course completed and have consent of parent or guardian. Permit holders must be accompanied in the front seat by a licensed driver. |
| Washington | 18 | 15-1/2 | -- | License at 16 with driver training. Permit issued at 15 for students enrolled in a high school driver training program. |
| West Virginia | 18 | no age | -- | Junior permit at 16, must be accompanied by written consent of parents or guardian. |
| Wisconsin | 18 | no age | | License at 16 if approved driver education completed-special permits available for students enrolled in school driver education courses. 1st license probationary, except for persons under 21 who have held license in another state for at least 3 years. Probationary license valid for 2 years. |
| Wyoming | 16 | 15 | -- | Under 18 need consent of one parent or guardian. Minors under 19 are photographed in profile. Permit with parental consent must be accompanied by licensed driver age 18 or older. |

Source: "Digest of Motor Laws, 1980," American Automobile Association, Falls Church, Virginia, 1980.

TABLE 5E

DRIVING LICENSURE REQUIREMENTS

| STATE | LICENSE REQUIRED | INITIAL EXAMINATION FOR LICENSE | | | | | | COMMENTS |
|---|---|---|---|---|---|---|---|---|
| | | Written | Oral | Vision | Driving | Hearing | Physical | |
| Alabama | YES | YES | NO | YES | YES | NO | NO | |
| Alaska | YES | YES | NO | YES | YES | NO | NO | |
| Arizona | YES | YES | YES | YES | YES | NO | NO | |
| Arkansas | YES | YES | YES | YES | YES | NO | NO | |
| California | YES | YES | NO | YES | YES | NO | NO | Road sign test |
| Colorado | YES | YES | NO | YES | YES | NO | NO | |
| Connecticut | YES | YES | YES | YES | YES | NO | NO | |
| Delaware | YES | YES | NO | YES | YES | NO | NO | |
| District of Columbia | YES | YES | YES | YES | YES | NO | NO | |
| Florida | YES | YES | NO | YES | YES | YES | NO | Road sign test |
| Georgia | YES | YES | NO | NO | YES | NO | NO | |
| Guam | YES | YES | NO | YES | YES | NO | NO | |
| Hawaii | YES | YES | NO | YES | YES | NO | NO | |
| Idaho | YES | YES | NO | YES | YES | NO | NO | Note a |
| Illinois | YES | YES | NO | YES | YES | NO | NO | |
| Indiana | YES | YES | NO | YES | YES | NO | NO | |
| Iowa | YES | YES | NO | YES | YES | NO | NO | |
| Kansas | YES | YES | NO | YES | YES | NO | NO | |

NOTES:

a) Road Sign Test Required; Driving Test can be required, at discretion of examiner.

TABLE 5E

DRIVING LICENSURE REQUIREMENTS

| STATE | LICENSE REQUIRED | INITIAL EXAMINATION FOR LICENSE |  |  |  |  |  | COMMENTS |
|---|---|---|---|---|---|---|---|---|
|  |  | Written | Oral | Vision | Driving | Hearing | Physical |  |
| Kentucky | YES | YES | NO | YES | YES | YES | YES |  |
| Louisiana | YES | YES | NO | YES | YES | NO | NO |  |
| Maine | YES | YES | YES | YES | YES | NO | NO |  |
| Maryland | YES | YES | NO | YES | YES | NO | NO |  |
| Massachusetts | YES | YES | NO | YES | YES | NO | NO |  |
| Michigan | YES | YES | YES | YES | YES | NO | NO |  |
| Minnesota | YES | YES | NO | YES | YES | NO | NO |  |
| Mississippi | YES | YES | NO | YES | YES | NO | NO | Road sign test |
| Missouri | YES | YES | NO | YES | YES | NO | NO | Road sign test |
| Montana | YES | YES | NO | YES | YES | NO | NO |  |
| Nebraska | YES | YES | NO | YES | YES | NO | NO |  |
| Nevada | YES | YES | NO | YES | YES | NO | NO |  |
| New Hampshire | YES | YES | YES | YES | YES | NO | NO |  |
| New Jersey | YES | YES | NO | YES | YES | NO | NO |  |
| New Mexico | YES | YES | NO | YES | YES | NO | NO |  |
| New York | YES | YES | NO | YES | YES | NO | NO | Road sign test |
| North Carolina | YES | YES | NO | YES | YES | NO | NO | Road sign test |
| North Dakota | YES | YES | NO | NO | YES | NO | NO | Road sign test |

TABLE 5E

DRIVING LICENSURE REQUIREMENTS

| STATE | LICENSE REQUIRED | INITIAL EXAMINATION FOR LICENSE | | | | | | COMMENTS |
|---|---|---|---|---|---|---|---|---|
| | | Written | Oral | Vision | Driving | Hearing | Physical | |
| Ohio | YES | YES | NO | YES | YES | NO | NO | |
| Oklahoma | YES | YES | NO | YES | YES | NO | NO | |
| Oregon | YES | YES | NO | YES | YES | NO | NO | |
| Pennsylvania | YES | NO | YES | YES | YES | NO | YES | |
| Puerto Rico | YES | YES | NO | NO | YES | NO | YES | |
| Rhode Island | YES | YES | NO | YES | YES | NO | NO | |
| South Carolina | YES | YES | NO | NO | YES | NO | NO | |
| South Dakota | YES | YES | NO | YES | YES | NO | NO | |
| Tennessee | YES | YES | NO | YES | YES | NO | NO | |
| Texas | YES | YES | NO | YES | YES | NO | NO | |
| Utah | YES | YES | NO | YES | YES | NO | NO | |
| Vermont | YES | YES | NO | YES | YES | NO | NO | |
| Virgin Islands | YES | YES | NO | YES | YES | NO | YES | |
| Virginia | YES | YES | YES | YES | YES | NO | NO | |
| Washington | YES | YES | NO | YES | YES | NO | YES | |
| West Virginia | YES | YES | NO | YES | YES | NO | NO | |
| Wisconsin | YES | YES | Note b | YES | YES | NO | NO | |
| Wyoming | YES | YES | NO | YES | YES | NO | NO | |

NOTES:

b) Oral exam if applicant cannot read.

## TABLE 5F

## AGE AT WHICH BEER, WINE AND DISTILLED SPIRITS MAY BE SOLD TO YOUNG CONSUMER

| STATE | BEER | WINE | DISTILLED SPIRITS |
|---|---|---|---|
| Alabama | 19 | 19 | 19 |
| Alaska | 19 | 19 | 19 |
| Arizona | 19 | 19 | 19 |
| Arkansas | 21 | 21 | 21 |
| California | 21 | 21 | 21 |
| Colorado | 21 * | 21 | 21 |
| Connecticut | 18 | 18 | 18 |
| Delaware | 20 | 20 | 20 |
| District of Columbia | 18 | 21 ** | 21 |
| Florida | 18 | 18 | 18 |
| Georgia | 18 | 18 | 18 |
| Guam | 19 | 19 | 19 |
| Hawaii | 18 | 18 | 18 |
| Idaho | 19 | 19 | 19 |
| Illinois | 19 | 19 | 21 |
| Indiana | 21 | 21 | 21 |
| Iowa | 18 | 19 | 19 |
| Kansas | 21 * | 21 | 21 |
| Kentucky | 21 | 21 | 21 |
| Louisiana | 18 | 18 | 18 |
| Maine | 20 | 20 | 20 |
| Maryland | 18 | 18 | 21 |
| Massachusetts | 18 | 18 | 18 |
| Michigan | 21 | 21 | 21 |
| Minnesota | 19 | 19 | 19 |
| Mississippi | 21 * | 18 | 21 |
| Missouri | 21 | 21 | 21 |

* Can purchase 3.2% beer at 18 (4% in Mississippi.)

** Can purchase 14% wine at 18.

## TABLE 5F

## AGE AT WHICH BEER, WINE AND DISTILLED SPIRITS MAY BE SOLD TO YOUNG CONSUMER

| STATE | BEER | WINE | DISTILLED SPIRITS |
|---|---|---|---|
| Montana | 19 | 19 | 19 |
| Nebraska | 19 | 19 | 19 |
| Nevada | 21 | 21 | 21 |
| New Hampshire | 20 | 20 | 20 |
| New Jersey | 18 | 18 | 18 |
| New Mexico | 21 | 21 | 21 |
| New York | 18 | 18 | 18 |
| North Carolina | 18 | 21 ** | 21 |
| North Dakota | 21 | 21 | 21 |
| Ohio | 21 * | 21 | 21 |
| Oklahoma | 21 | 21 | 21 |
| Oregon | 21 | 21 | 21 |
| Pennsylvania | 21 | 21 | 21 |
| Puerto Rico | 18 | 18 | 18 |
| Rhode Island | 18 | 18 | 18 |
| South Carolina | 18 | 18 | 21 |
| South Dakota | 21 * | 21 | 21 |
| Tennessee | 20 | 20 | 20 |
| lexas | 18 | 18 | 18 |
| Utah | 21 | 21 | 21 |
| Vermont | 18 | 18 | 18 |
| Virgin Islands | 18 | 18 | 18 |
| Virginia | 21 * | 21 | 21 |
| Washington | 21 | 21 | 21 |
| West Virginia | 18 *** | 18 | 18 |
| Wisconsin | 18 | 18 | 18 |
| Wyoming | 19 | 19 | 19 |

* Can purchase 3.2% beer at 18 (4% in Mississippi)

** Can purchase 14% wine at 18.

*** Can purchase beer at any age if accompanied by parents.

## TABLE 5G

## PROHIBITED PROVISION OF TOBACCO PRODUCTS TO CHILDREN UNDER A SPECIFIED AGE

| STATE | CHILD UNDER AGE | PROHIBITED ACTION WITH RESPECT TO CHILD |
|---|---|---|
| Alabama | 18 | Sale, barter, exchange or gift |
| Alaska | 16 | Person 19 or older sale, exchange or gift. |
| Arizona | 18 | Sell, gives or furnishes |
| Arkansas | 18 | Give, barter, sell |
| California | 18 | Note a. |
| Colorado | 16 | Sell, gives or delivers |
| Connecticut | 16 | Sells, gives or delivers |
| Delaware | 17 | Sells, causes to be sold, gives, purchases or procures in any form for a child (not applicable to parents) |
| Dist. of Columbia | 16 | Sell, give or furnish |
| Florida | 18 | Sell, barter, furnish, or give away, directly or indirectly or advise, persuade, counsel or compel to smoke |
| Georgia | | No provision |
| Hawaii | 15 | Sell or furnish |
| Idaho | 18 | Give, sell or furnish |
| Illinois | 18 | Sell, buy for, or furnish unless under written order of parent |
| Indiana | | Repealed in 1976. No new statute specifying prohibition; may come under endangering health of the minor |
| Iowa | 18 | Sell, barter, give or furnish |
| Kansas | 18 | Sell |
| Kentucky | | No provision |
| Louisiana | | No provision |
| Maine | 16 | Sell, furnish or give away |
| Maryland | 15 | Sell, barter, give away, or purchase for |
| Massachusetts | 18<br>16 | Gives or sells cigarettes<br>Gives, or sells snuff or tobacco |
| Michigan | 17<br>18 | Sell, give or furnish tobacco unless written order of parent or guardian<br>Note b. |

NOTES:

a) Every person, firm, or corporation sells, gives or in any way furnishes. Special provisio allows the Directors of Corrections or Youth Authority to supply cigarettes, to sell, or supply tobacco products to persons confined in institution under his jurisdiction; applie to child 16 and over with parents' or guardian's consent.

b) Sell, give, furnish cigarettes unless written order of parent or guardian. Special provision to prevent one who knowingly harbors, grants privilege of gathering or frequentin property for purpose of indulging in cigarettes. Not to interfere with parents.

TABLE 5G

## PROHIBITED PROVISION OF TOBACCO PRODUCTS TO CHILDREN UNDER SPECIFIED AGE

| STATE | CHILD UNDER AGE | PROHIBITED ACTION WITH RESPECT TO CHILD |
|---|---|---|
| Minnesota | 18 | Furnishes |
| Mississippi | 18 | Sell, barter, delivery or give |
| Missouri |  | Former statute, prohibiting sale to minor under 18, omitted in revised statutes |
| Montana | 18 | Sells or gives |
| Nebraska | 18 | Sells, gives or furnishes. |
| Nevada | 18 | Note c. |
| New Hampshire | 18 | Sell, give or deliver other than parent |
| New Jersey | 16 | Sell |
| New Mexico |  | No provision |
| New York | 18 | Sells or causes to be sold, comes under statute prohibiting endangering the welfare of a child. |
| North Carolina | 17 | Sell, give or otherwise dispose of directly or indirectly. Also prohibits aiding or assisting in obtaining. |
| North Dakota | 18 | Sell or furnish |
| Ohio |  | Statute repealed |
| Oklahoma | 18 | Furnish, gift, sale or otherwise |
| Oregon | 18 | Sells or causes to be sold. |
| Pennsylvania | 16 | Sells, purchases or gives |
| Rhode Island | 16 | Sell, give, or deliver |
| South Carolina | 18 | Sell, furnish, give or provide |
| South Dakota | 16 | Sell, give or furnish - misdemeanor |
|  | 18 | Supply - petty offense |
| Tennessee | 18 | Selling or furnishing |
| Texas | 16 | Sell, give or barter, unless written consent from parent |
| Utah | 18 | Furnishes |
| Vermont | 17 | Sells or gives away |
| Virginia | 16 | Sell, barter or give away |
| Washington | 18 | Sell or give |
| West Virginia | 18 | Sell, give or furnish |
| Wisconsin |  | No provision |
| Wyoming | 18 | Buy for, give to or furnish |

NOTES:

c) Sell, give away or offer except with written order for parents' use only--Nevada Youth Training Center can furnish to 16 years and older.

TABLE 5H

## STATUTES PROHIBITING THE PURCHASE, POSSESSION, OR USE OF TOBACCO PRODUCTS BY CHILDREN UNDER SPECIFIED AGE

| STATE | NO STATUTE | CHILD UNDER AGE | PROHIBITED ACTION |
|---|---|---|---|
| Alabama | X | | |
| Alaska | X | | |
| Arizona | | 18 | Buys, has in possession or knowingly accepts or receives |
| Arkansas | X | | |
| California | X | | |
| Colorado | X | | |
| Connecticut | X | | |
| Delaware | X | | |
| District of Columbia | X | | |
| Florida | | 18 | Minor who is caught possessing tobacco products may be compelled to testify before the county court judge as to where and from whom he obtained |
| Georgia | X | | |
| Guam | X | | |
| Hawaii | X | | |
| Idaho | | 18 | Buys, accepts or has in possession |
| Illinois | | 18 | Buys |

## TABLE 5H

## STATUTES PROHIBITING THE PURCHASE, POSSESSION, OR USE OF TOBACCO PRODUCTS BY CHILDREN UNDER SPECIFIED AGE

| STATE | NO STATUTE | CHILD UNDER AGE | PROHIBITED ACTION |
|---|---|---|---|
| Indiana | X | | |
| Iowa | | 18 | Required to give information to peace officer, juvenile court officer, truant officer or teacher as to how he came to possess cigarettes |
| Kansas | | 18 | Purchase |
| Kentucky | X | | |
| Louisiana | X | | |
| Maine | X | | |
| Maryland | X | | |
| Massachusetts | X | | |
| Michigan | | 18 | Smokes or uses in any public place |
| Minnesota | | 18 | Use tobacco in public places<br>Smoking in community is not a sufficient cause to warrant expulsion from school - only when it undermines good order and discipline in school Op. Atty. Gen. 161b-11, April 24, 1967. |
| Mississippi | X | | |
| Missouri | X | | |
| Montana | X | | |

## TABLE 5H

## STATUTES PROHIBITING THE PURCHASE, POSSESSION, OR USE OF TOBACCO PRODUCTS BY CHILDREN UNDER SPECIFIED AGE

| STATE | NO STATUTE | CHILD UNDER AGE | PROHIBITED ACTION |
|---|---|---|---|
| Nebraska | | 18 | Smoking $10 fine, unless minor gives information as to how he obtained cigarettes |
| Nevada | X | | |
| New Hampshire | X | | |
| New Jersey | X | | |
| New Mexico | X | | |
| New York | X | | |
| North Carolina | | 17 | If minor fails or refuses to give information to police officer on how he obtained cigarettes - guilty of misdemeanor |
| North Dakota | | 18 | Smoking or using tobacco products |
| Ohio | X | | |
| Oklahoma | | 18 | Penalty to minor for not giving information as to how he obtained cigarettes |
| Oregon | X | | |
| Pennsylvania | X | | |
| Puerto Rico | X | | |

TABLE 5H

## STATUTES PROHIBITING THE PURCHASE, POSSESSION, OR USE OF TOBACCO PRODUCTS BY CHILDREN UNDER SPECIFIED AGE

| STATE | NO STATUTE | CHILD UNDER AGE | PROHIBITED ACTION |
|---|---|---|---|
| Rhode Island | | 16 | Smoking or chewing tobacco in any public street, place or resort |
| South Carolina | X | | |
| South Dakota | X | | |
| Tennessee | X | | |
| Texas | X | | |
| Utah | X | | |
| Vermont | X | | |
| Virgin Islands | X | | |
| Virginia | X | | |
| Washington | X | | |
| West Virginia | | 18 | Smoke or possess. Fine not to exceed $5, unless child refuses to disclose where obtained |
| Wisconsin | X | | |
| Wyoming | X | | |

## TABLE 51

## PARTICIPATION IN THE POLITICAL PROCESS

| STATE | AGE AT WHICH MAY VOTE IN STATE ELECTION | AGE AT WHICH MAY HOLD PUBLIC OFFICE IN STATE * | AGE AT WHICH MAY SERVE ON JURIES |
|---|---|---|---|
| Alabama | 19 | 21 | 21 |
| Alaska | 19 | 18 | 19 |
| Arizona | 18 | 18 | 18 |
| Arkansas | 18 | 18 | 18 |
| California | 18 | 18 | 18 |
| Colorado | 18 | 21 | 18 |
| Connecticut | 18 | 18 | 18 |
| Delaware | 18 | 18 | 18 |
| District of Columbia | 18 | 18 | 18 |
| Florida | 18 | 18 | 18 |
| Georgia | 18 | 21 | 18 |
| Hawaii | 18 | 18 | 18 |
| Idaho | 18 | 21 | 18 |
| Illinois | 18 | Note a | 18 |
| Indiana | 18 | 21 | 18 |
| Iowa | 18 | 18 | 18 |
| Kansas | 18 | 18 | 18 |
| Kentucky | 18 | 21 | 18 |
| Louisiana | 18 | 18 | 18 |
| Maine | 18 | 18 | 18 |
| Maryland | 18 | 18 | 18 |
| Massachusetts | 18 | 18 | 21 |
| Michigan | 18 | 18 | 18 |
| Minnesota | 18 | 21 | 18 |
| Mississippi | 18 | 21 | 18 |
| Missouri | 18 | 18 | 21 |

* States specify different minimum ages for different levels of public office. Age given is lowest age at which any public office may be held.

NOTES:

a) 18 for serving on school board; 21 for all others.

## TABLE 5I

## PARTICIPATION IN THE POLITICAL PROCESS

| STATE | AGE AT WHICH MAY VOTE IN STATE ELECTION | AGE AT WHICH MAY HOLD PUBLIC OFFICE IN STATE | AGE AT WHICH MAY SERVE ON JURIES |
|---|---|---|---|
| Montana | 18 | 18 | 18 |
| Nebraska | 18 | 21 | 21 |
| Nevada | 18 | 18 | 18 |
| New Hampshire | 18 | 18 | 18 |
| New Jersey | 18 | 18 | 18 |
| New Mexico | 21 | 21 | 18 |
| New York | 18 | 18 | 18 |
| North Carolina | 18 | 21 | 21 |
| North Dakota | 18 | 18 | 18 |
| Ohio | 18 | 18 | 18 |
| Oklahoma | 18 | 18 | 18 |
| Oregon | 18 | 18 | 18 |
| Pennsylvania | 18 | 18 | 18 |
| Puerto Rico | | | |
| Rhode Island | 18 | 18 | 21 |
| South Carolina | 18 | 18 | 18 |
| South Dakota | 18 | 21 | 21 |
| Tennessee | 18 | 21 | 18 |
| Texas | 18 | 18 | 18 |
| Utah | 21 | 18 | 21 |
| Vermont | 18 | 18 | 21 |
| Virgin Islands | | | |
| Virginia | 18 | 18 | 18 |
| Washington | 18 | 18 | 18 |
| West Virginia | 18 | 18 | 18 |
| Wisconsin | 18 | 18 | 18 |
| Wyoming | 18 | 19 | 18 |

Much of the information for this chart was taken from The Book of States, 1979-80, Vol. 23, The Council of State Governments, Lexington, Kentucky.

# TREND SUMMARY

## Chapter 6: Juvenile Court

Not fully reflected in the statutory analysis of this chapter is the recent growth of case law dealing primarily with the expansion of procedural rights of minors within the juvenile process. About the only area in which any statutory change has occurred deals with the removal from or modified control and treatment of status offenders as a separate class of offenders by the court.

Overall, it can be anticipated that substantial issues involving procedural due process will be addressed by the various state courts and eventually the Supreme Court of the United States as the concept of mature minor changes and with it our notions of the degree to which minors are capable of controlling their own affairs. Perhaps with no other classification of minors who come to the attention of the Court is change more likely than with status offenders.

Status offenders present a unique situation to the courts and to society. This summary is not designed to cover the many arguments raised over the past few years regarding either the inclusion or exclusion of status offenders within the purview of the juvenile court. Suffice it to say that many of the issues dealing with current definitions of the term status offender, particularly in the area of runaways, demand intense scrutiny as the age of the minor approaches that of majority. More precisely, such social questions as rendering mature decisions on driving cars, having babies and engaging in sex seem to warrant the conclusion that if children are mature enough to render decisions in these highly sensitive areas, perhaps they are mature enough to render decisions regarding other personal conduct that is consistent with common social standards but which may be deemed unacceptable by their parents. Many parents, when they object to their child's reluctance to obey their commands, attempt to bring the child to consensus by filing petitions declaring the child to be a runaway, ungovernable or incorrigible. It remains an open question as to how many of these petitions reflect parental inadequacies and/or abuses rather than unacceptable child behaviors. Indeed, many such petitions may simply reflect a difference of perceptions that the older more mature child has as opposed to the standards of conduct that his/her parents expect the minor to display.

The kind of flexibility needed to deal with these problems does not exist in most juvenile statutes and will require a great deal of development over the next decade, if many of these statutes are not to run afoul of constitutional tests of the rights of privacy that parents or others representing children can be expected to mount.

Finally, many states have enacted piecemeal legislation tying in more "modern" juvenile statutes and their new standards involving status offenders with such vintage concepts as immoral or corrupt living, incorrigibility and ungovernability. These latter concepts have been incorporated in law for decades and represent a mechanism for control of children by parents incapable of doing so without assistance of the courts. These hoary concepts have been a very significant traditional source of juvenile court authority and have been retained in many of the recent statutory changes affecting the functions of the court. Again, reconcillation of these concepts with changing social standards governing the behavior of adolescents needs to be accomplished to effect a coherent and modern approach in handling status offenders.

Insofar as status offender classifications are concerned, the 80's will probably see a resolution of where such minors are to be placed (either under delinquent or dependent categories) or the final placement of status offenders in classes unique to themselves and even perhaps outside the juvenile court. Regardless of this outcome, an increased emphasis upon a multidisciplinary approach to defining status offenders in terms of social behavior and behavioral causes can be anticipated over the next few years. No simple solution to the problem of status offender classification is likely to eventuate as the courts, legislatures and parents continue to juggle and modify the limits of the authority of each to control the behavior of adolescents within the context of increasing societal recognition that older children should be afforded increased latitude and responsibility for their own behavior.

# CHAPTER 6

## JUVENILE COURT

The juvenile court is a system developed to allow state intervention in the lives of children. The state may intervene when:

a) the child has engaged in conduct that the state prohibits anyone from engaging in (e.g., robbery);

b) the child has engaged in conduct that the state prohibits children from engaging in (e.g., cutting school);

c) the child has engaged in conduct that the parents prohibit him from engaging in (e.g., staying out all night); or

d) the parents fall below minimal standards set by the state for care of the child (e.g., physically abusing the child).

Discussed in this chapter are a brief history of the juvenile court, conditions for interventions, procedural protections and possible dispositions when the court intervenes. Older children and those working with older children should pay special attention to those sections which describe state intervention in parent-child conflicts (situation [c] above, "status offender" sections in discussion below).

### 1. Introduction to Juvenile Court

The concept of a specialized court to deal with juveniles was born in Illinois early in this century; it rapidly spread throughout the rest of the country. The initial juvenile court movement in the United States had two major objectives. The first was to divert children from the criminal justice system under which punishment through fines and incarceration was viewed as the major deterrent against the commission of further crimes. The second was to provide a special court in which children who came within the jurisdiction of the court could receive individual treatment to rehabilitate rather than punish.

> The essential philosophy of the juvenile court and of other specialized courts handling children's cases, has been called "individualized justice." This in essence means that the court "recognizes the individuality of a child and adapts its orders accordingly," that it is a "legal tribunal where law and science, especially the science of medicine and those sciences which deal with human behavior, such as biology, sociology, and psychology, work side by side"

> and that its purpose is remedial and to a degree preventive, rather than punitive.[1]

This is not to say that those who advocated the establishment of juvenile courts separate from the criminal courts desired to relieve children of responsibility for their actions regardless of the consequences of those actions upon themselves or upon others in the community.

> Offenses committed by young people should not be excused or condoned. The general public should be protected, and young people need to be held responsible for the consequences of their misconduct. The consequences of such misconduct, however, should result in individualized treatment authorized through the ordinary process of law and utilizing the appropriate care and services as needed in a given situation. Such an approach is based upon knowledge of the individual and is designed to protect as well as rehabilitate--so-called "mollycoddling" or retributive punishment accomplishes neither objective.[2]

The new juvenile courts were given the same powers to enforce criminal laws as adult criminal courts had. Additionally, these courts were given jurisdiction over a broader range of children; included within the courts' jurisdiction were children who were "predelinquent." Early reform attempts

> . . .sought to identify children thought to be predisposed to a life of crime and treat those children. The early detection system relied on factors such as poverty, idleness and extremely minor deviant conduct as an indication of future criminality.[3]

In addition to having broader jurisdiction, juvenile court differed from criminal court because juvenile courts were allowed to operate unrestrained by fundamental constitutional safeguards which protected adults in criminal proceedings. In a case early in the juvenile court movement, the Pennsylvania Supreme Court stated:

---

[1] U.S. Children's Bureau, Pub. No. 346-1954, Standards for Specialized Courts Dealing with Children, page 1. This was a revision of a publication entitled Juvenile Court Standards which was originally issued in 1923, only 24 years after the founding of the first juvenile court.

[2] Sheridan, Standards for Juvenile and Family Courts, U.S. Children's Bureau, Dept. of Health, Education and Welfare, Pub. No. 436-1966, pp. 1-2.

[3] Legislative Manual for the 2nd National Juvenile Justice Legislative Advocacy Conference, St. Louis, Missouri, Nov. 11-13, 1979.

> To save a child from becoming a criminal, or from continuing in a career of crime. . .the Legislature surely may provide for the salvation of such a child. . .by bringing it into one of the courts of the state without any process at all, for the purpose of subjecting it to the state's guardianship and protection. . .[T]he state, when compelled, as parens patriae, to take the place of the father. . .[is not] required to adopt any process as a means of placing its hand upon the child to lead it into one of its courts. When the child gets there, with the power to save it, determine on its salvation, and not its punishment, it is immaterial how it goes there.[4]

Of the doctrine of parens patriae the U.S. Supreme Court in the Gault[5] decision said:

> The early reformers were appalled by adult procedures and penalties, and by the fact that children be given long prison sentences and mixed in jails with hardened criminals. They were profoundly convinced that society's duty to the child could not be confined by the concept of justice alone. They believed that society's role was not to ascertain whether the child was "guilty" or "innocent" but "What is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career". . .The idea of crime and punishment was to be abandoned. The child was to be "treated" and "rehabilitated" and the procedures. . .were to be "clinical" rather than punitive. . . .These results were to be achieved. . .by insisting that the proceedings were not adversary, but that the state was proceeding as parens patriae. The Latin phrase proved to be a great help to those who sought to rationalize the exclusion of juveniles from the constitutional scheme; but its meaning is murky and its historical credentials are of dubious relevance. . . there is no trace of the doctrine in the history of criminal jurisprudence. . . .

The court then proceeded to detail the theory under which the state, by asserting the right of parens patriae, had denied to juveniles the procedural rights under the Constitution which were available to adults. It was asserted, the court said, that a child has a right not to liberty but to custody.

---

[4] Commonwealth v. Fisher, 215 Pa. 38, 50, 53; 62 A. 198, 199, 200 (1905).

[5] In re Gault, 387 U.S. 1 (1967).

> If his parents default in performing their customary functions--that is, if the child is "delinquent"--the state may intervene. In doing so, it does not deprive the child of any rights, because he has none. It merely provides the "custody" to which the child is entitled.

The Juvenile Court has been heavily criticized in the past two decades.[6] Jurisdiction over status offenders and lack of procedural protections have been two topics which have drawn negative comment. In the sections which follow, state legislative responses to these criticisms will be explored as a general routine of the juvenile justice system is presented.

## 2. Coming Within the Jurisdiction of the Juvenile Court

### Age

All jurisdictions set some upper limit to the juvenile court's jurisdiction. The most common provision states that a juvenile court has jurisdiction until the child reaches his 18th birthday. (See Table 6A.) The lowest age is 16 in Connecticut, New York, North Carolina and Wyoming. Most statutes do not explicitly state whether this means that the child must be less than 18 at the time of the offense or at the time the court hears the matter. The Juvenile Justice Standard recommends that age at time of commission of the offense be considered; most jurisdictions follow this rule.

Four states have a lower age for delinquency jurisdiction than for status offenders or dependent/neglected children. Five states[7] have a combination of age and crime requirement for jurisdiction. For example, in Louisiana where the maximum age is usually 18, a child 15 charged with a capital crime is excluded from juvenile court jurisdiction.[8] New York has an elaborate scheme: 16 is the maximum age but, in combination with certain crimes, the age may be 13, 14, or 15.[9]

Only seven states have established minimum age provisions, and all of these are for the delinquent category. (See Table 6A.) The common law refused to impose criminal liability on children under the age of 7, judging them incapable of criminal intent. In jurisdictions without a statutory minimum age the common law age of 7 probably sets a limit. Two of the states with minimum age in their statute use age 7 (Massachusetts and Wyoming). Arizona uses 8; Mississippi, Pennsylvania and Texas use 10 and Georgia uses 12.

---

[6] See, e.g., The Challenge of Crime in a Free Society, Report of the President's Commission on the Enforcement and the Administration of Justice (1967), Government Printing Office, Washington, D.C.

[7] Colorado, Louisiana, Maryland, New Mexico, New York.

[8] LA. Rev. STAT. ANN 13 Sec. 1520.

[9] 30.00 CPL, 712 of Family Court Act.

## Conduct

Seven jurisdictions set out conduct which might bring a juvenile before the court but do not attempt to place kinds of conduct into category of jurisdiction. The remaining jurisdictions divide conduct into three types of categories: delinquent, status offense and dependent/neglected child. The eight no-category jurisdictions are charted in Table 6B. Categories for other jurisdictions and the conduct which fits within each category, are discussed below.

### a. Delinquency

Every jurisdiction has a category labeled "delinquent." Conduct which brings a child within the jurisdiction of the court under this category is conduct which, if engaged in by an adult, would be a crime. (See Table 6C.) Ten states require a combination of "criminal" conduct and the need for rehabilitation or care. Violation of a court order can bring the child within the jurisdiction of the court in 11 states.

By using the violation of court order provision, a jurisdiction can elevate a status offender into a delinquent when the status offender runs away from a placement or otherwise violates a condition of probation (even in a way that would not be a crime for an adult).

Seven jurisdictions include status offense type conduct ("endangers self," truancy, runaway) in the delinquency category. The trend, however, is to treat status offenders separately from delinquents or to remove them from juvenile court jurisdiction altogether. This trend will be discussed further in the next section. Mississippi treats delinquents and status offenders together in a category that is like status offender categories in other jurisdictions: Children in Need of Supervision.

Sometimes conduct which would be a crime for an adult will not bring the child within the jurisdiction of the juvenile court. Four states treat children who have engaged in criminal conduct but who are below a minimum age as dependent/neglected children: Mississippi, 10 years; Pennsylvania, 10 years; Arizona, 8 years; New York, 7 years. Minnesota and Mississippi treat children as dependent if their criminal conduct was the result of parental pressure or neglect. At the other end of the scale 13 jurisdictions[10] exclude from juvenile court jurisdiction children who have committed serious criminal acts. These children are handled in adult criminal court.

---

[10] Colorado, Delaware, D.C., Florida, Georgia, Indiana, Louisiana, Maryland, Nevada, New Mexico, North Carolina, Pennsylvania, New York.

### b. Status Offenders, Wayward Children, PINS, Unruly Children

This category of jurisdiction should be of interest to older children. Status offender jurisdiction allows the court to assume custody and control over children though the children have committed no act which would be a crime if the children were adults. It is this jurisdiction that allows a juvenile court (1) to enforce the rules its state has set for restricting juvenile freedom in the community, and (2) to intervene to support parental decisionmaking about children.

Statutory definitions of status offender contain some specifically described proscribed behavior, such as runaway (28 states), truancy (41 states), and curfew violation (three states); but they also include broad, vague concepts such as incorrigibility, in need of supervision, beyond control and in danger of leading a corrupt or immoral life. In some situations in which the court may intervene there is state/child conflict; in others, there is parent/child conflict. Critics have suggested that juvenile court jurisdiction is non-productive and detrimental in the case of parent/child conflict and is overkill in the case of state/child conflict which falls short of criminal conduct.[11]

The past decade has seen much legislative change in the way status offenders are handled. First, a category separate from delinquency was set up with different handling and dispositions mandated. More recently, efforts have been directed to abolishing or limiting status offense jurisdiction. See Table 6D for indication of those jurisdictions which have no status offense jurisdictions either because they have abolished the jurisdiction or because they treat status offenders with dependent/neglected children. Colorado abolished jurisdiction over all status offenders except runaways in 1978. They treat runaways with dependent/neglected children (Children Needing Oversight).[12] Delaware kept jurisdiction only over truants when it revised its statutes in 1978.[13] Iowa abolished juvenile court jurisdiction over status offenders. It enacted in 1979 a new category, Child in Need of Assistance.[14] Included within this category are children who wish to have their parents relieved of custody and control and parents who wish to be relieved of custody and control. Former status offenders may fall within these descriptions. Maine, in 1978, abolished status offense jurisdiction. Maine has retained jurisdiction over runaways in its Child at Risk category.[15] Washington state abolished jurisdiction over status offenders. In 1979, through its Families in Conflict statute, Washington re-established jurisdiction in juvenile court over runaways.

---

[11] IJA/ABA Juvenile Justice Standards Project, Noncriminal Misbehavior (tentative draft, 1976); O. Ketcham, Why Jurisdiction Over Status Offenders Should Be Eliminated from Juvenile Courts, 57 B.U.L.R. 645, 648-49 (1977).

[12] 1978 Colo. Sess. Laws, Ch. 68, 363.

[13] DEL. CODE ANN. Tit. 10 (901).

[14] IOWA CODE ANN. 232.2(5).

[15] ME. REV. STAT. ANN. 3701(2).

Even though most jurisdictions still have statutes which give their courts jurisdiction over status offenders, many jurisdictions endeavor to divert status offenders from juvenile courts rather than to exercise their jurisdiction; they view status offenses as family rather than individual problems. Many communities have set up diversion programs both at the police and the juvenile court agency level. The National Advisory Committee on Criminal Justice Standards and Goals stated in 1976:

> Many of the juveniles who are brought to the attention of juvenile justice system officials are clearly in need of rehabilitation and/or some type of supervision. But, for a substantial portion of this group, the full coercive power of the court is unnecessary to deal with a juvenile's problem.
>
> There are at least three principles which should guide the operation of all diversionary practices within the juvenile justice system. First, diversion should not be offered unless there is some effective service or treatment in which the juvenile may participate. Second, the expansion of diversionary programs should not increase the total number of juveniles that are under some type of supervision of the juvenile justice system. Finally, candidates for diversion should be guaranteed the same due process rights as juveniles who are processed formally, within the juvenile justice system.[16]

A diversion program usually involves procedures on the part of the agency of initial contact (police or intake officer) which funnel children and their families to community programs. The community programs provide crisis counseling, temporary shelter care and long-term support for child and family. As these programs develop, jurisdictions may find that there is less need to continue juvenile court jurisdiction.

Diversion programs are not effective for runaways from other jurisdictions or for intractable runaways from within the jurisdiction. Secure custody, so that the child may be kept in one place at least temporarily, is not possible through voluntary diversion programs. For this reason, some jurisdictions, though they have abolished status offender jurisdiction, generally have retained (or in the case of Washington re-established) jurisdiction over runaways.

### c. Dependent/Neglected Children

Children in this category come within the jurisdiction of the court because they lack parents or because they are getting inadequate parenting. A variety of terms are used to describe the child for whom this jurisdiction is appropriate.

---

[16] Report of the Task Force on Juvenile Justice and Delinquency Prevention (1976), p. 13.

(See Table 6E.) The Idaho statute, for example, states that the court shall have jurisdiction over any child

> . . .(a) who is neglected, abused or abandoned by his parents, guardian or other legal custodian, or who is homeless; or
> (b) whose parents or other legal custodian fails to provide a stable home environment. . .by reason of immaturity or emotional, mental or physical disability.[17]

"Neglected" in this context means "without proper parental care and control, or subsistence, education, medical or other care or conduct necessary for his total being."[18]

Most of the children who come within the jurisdiction of the court under these non-offender statutes are younger. Older children might find themselves the subject of juvenile court concern if they are sexually abused. Also, this branch of juvenile court jurisdiction allows state intervention into family decisionmaking if the family's decisions threaten the child's physical (or in some states, emotional) well-being. It is sometimes used to secure medical care for a child in life-threatening situations where parents refuse to consent to care. Dependency/neglect jurisdiction is less frequently, but on occasion, used to move a child out of his parents' home and into foster placement when there are unresolvable conflicts between the parents and child. Bringing a child within the jurisdiction of the court as a dependent, rather than as a status offender, has the advantage of not stigmatizing the child by labeling him as a wrongdoer.

## Waiver of Juvenile Court Jurisdiction and Transfer to Adult Court

As the rate of violent crimes committed by juveniles increases, the concern of the community also increases. Some believe that the juvenile court is inadequate to deal with violent or repeatedly delinquent youths. Special protection and treatment which have been developed for less culpable youth are thought to be inappropriate and futile for serious offenders. Responding to community pressure, two states have lowered the maximum age for juvenile court jurisdiction to 16. Thirteen states have excluded from jurisdiction those children who commit specified serious offenses. In these states, the prosecutor, by virtue of his control over the charging process, decides which children remain in the juvenile justice system and which are transferred to adult court for trial.

An alternative method of dealing with serious youth crime is to authorize the juvenile courts to waive jurisdiction over some of the delinquents who come within their original jurisdiction; the courts may transfer these delinquents to adult court. Every jurisdiction except New York and Vermont has a statute which allows its juvenile court to transfer juveniles the court determines are not amenable to rehabilitation in the juvenile system. The process is called a "waiver" or "fitness hearing," or is labeled "transfer" or "certification" to adult court.

---

[17] ID. REV. STAT. ANN., 16 Sec. 1603.

[18] Id. Sec. 1602(n)(1).

The authority of the court to transfer juveniles has been criticized. Transfer to adult court exposes children to the possibility of longer and harsher sentences, severe conditions of confinement, increased stigma, detrimental interaction with adult offenders, and punishment instead of rehabilitation. The IJA/ABA Juvenile Justice Standards project has stated:

> Fundamentally, the commission regards transfer of a juvenile to criminal court as an admission of failure of the juvenile justice system to meet its sternest challenge. . .waiver of jurisdiction should be a last resort after all other efforts have failed and handling as an adult appears the only approach with any possibility of success in a particular case.[19]

Critics have not been able to persuade states to abolish transfer authority. Most states, in fact, have expanded the authority by increasing the number of children eligible for transfer. Many critics of juvenile court transfer authority realize that if juvenile courts are not given authority to transfer to adult court, community pressure for more severe handling of serious juvenile offenders might lead to a lowered maximum age for juvenile court jurisdiction. The two states without transfer authority (New York and Vermont) do set 16 as the age at which juvenile court jurisdiction ends. Retaining transfer authority at least allows courts to make individualized determination about the amenability to treatment of older delinquents.

The focus of reform now seems to be on setting up procedures and restrictions that will prevent the misuse of transfer authority. Criteria proposed by the Task Force on Juvenile Justice and Delinquency Prevention are set out in the following section.[20] State statutory provisions related to those proposals are discussed. (See Table 6F.)

## Age

Recommended Language: The juvenile was 16 years or older at the time of the alleged commission of the delinquent act.

States: Only 11 jurisdictions restrict transfer decisions to juveniles 16 or over. Seven jurisdictions allow transfer for children of any age. Mississippi and Illinois allow transfer of children as young as 13, as does Georgia if the child is accused of a capital crime. The remaining jurisdictions set the minimum age at 14 or 15, or set minimum ages (from 14 to 16) which vary according to the nature of the crime alleged to have been committed.

---

[19] Institute of Judicial Administration/American Bar Association Joint Commission on Juvenile Justice Standards. Summary, p. 13.

[20] Commission on Crime Prevention Task Force on Juvenile Justice (1976), Standard 9.5, p. 303.

### Nature of Offense

Recommended Language: The alleged delinquent act is aggravated or heinous in nature, or part of a pattern of repeated delinquent acts.

States: Only six states require that the juvenile has been previously adjudicated delinquent; some of these states do not require repeated offenses if the alleged offense is serious enough. Thirteen jurisdictions allow transfer for "crime," 17 for "felonies." Nine jurisdictions list specific offenses for which transfer is appropriate; tnese lists seem to meet the test of heinous or aggravated.

### Evidence Re Offense

Recommended Language: There is probable cause to believe the juvenile committed acts that are to be the subject of the adult criminal proceedings if waiver and transfer are approved.

Probable cause is defined in Black's *Law Dictionary* as "an apparent state of facts. . .which would induce a reasonably intelligent and prudent man to believe that the accused person has committed the crime charged."

States: Only 14 jurisdictions require "probable cause." Eleven jurisdictions require only that the qualifying offense be "alleged." Other jurisdictions require "reasonable grounds or prosecutorial merit of some degree."

### Amenability

Recommended Language: The juvenile is not amenable, by virtue of his maturity, criminal sophistication or past experience in the juvenile justice system to services provided for juveniles. The Task Force feels that the focus should be kept on the child's ability to profit from continued handling in the juvenile justice system. The standards do not mention protection of the community.

States: The statutes in Arkansas, Mississippi, Nevada, Rhode Island and South Carolina do not list criteria for the court to consider. Utah mentions that retained jurisdiction must be contrary to the interests of the child; North Carolina and Washington also require generally that the needs of the child be considered. All other jurisdictions follow the recommendation and require amenability to treatment. Thirty-six jurisdictions require that the courts also consider the need to protect the community.

Due Process

Recommended Language: The juvenile has been given a waiver and transfer hearing that comports with due process. In Kent v. United States,[21] the Supreme Court set out several requirements. The youth is entitled to counsel; there must be a hearing on the waiver; the youth's attorney is entitled to have access to the reports on which the waiver decision is to be based; the juvenile court judge must state the reasons for ordering that juvenile court jurisdiction be waived. The court did not state that the hearing must meet all the requirements of a criminal trial. It did hold that the hearing must "measure up to the essentials of due process and fair treatment."

States: Statutes do not require all the Kent protections. See Table 6B for details of protections provided. Since In re Gault, though, it has been clear that the Kent criteria are constitutionally required.

## 3. Procedural Protections

One special feature of the juvenile court system as envisioned by early reformers was informality. Because the total system would be working to help, rather than to punish, the child, guarantees that the procedure would be carried out along specific lines were unnecessary. All in the system were charged with acting in the child's best interest. Information collected from and about the child would be used to aid the child rather than be used against the child in an adversary proceeding. A spirit of cooperation was to prevail. Prompt, personalized response to the child's needs would be facilitated by informality. Additionally, informal procedures and relaxed atmosphere would make the process less frightening to the child, enhancing the available benefits.

As the system has grown, the result of informal procedure has been that juvenile courts were operating in a lawless atmosphere that was conducive to abuse of discretion, discrimination and arbitrariness. The fact that a juvenile court hearing could result in incarceration or other serious deprivation of liberty led many critics to demand the implementation of fundamental constitutional safeguards against the abuse of power.

In the late 1960s the Supreme Court began to define the constitutional protection which must be afforded juveniles within the juvenile justice system. Due process requirements during the adjudication phase of processing a child through the system were outlined in In re Gault. The court held that whenever delinquency proceedings may result in a child's incarceration, the Constitution requires that the juvenile has a right to be properly notified of the charges against him, the right to counsel, the right to confront and cross-examine witnesses and the privilege against self-incrimination.

Notice:

Notice, to comply with due process requirements, must be given

---

[21] 383 U.S. 541 (1966).

> sufficiently in advance of scheduled court proceedings so that reasonable opportunity to prepare will be afforded and must "set forth the alleged misconduct with particularity". . . .Due process of law requires. . .notice which would be deemed constitutionally adequate in a civil or criminal proceeding. It does not allow a hearing to be held in which a youth's freedom and his parents' right to his custody are at stake without giving them timely notice, in advance of the hearing, of the specific issues they must meet. . . .[22]

Right to Counsel:

> A proceeding where the issue is whether the child will be found to be "delinquent" and subject to loss of his liberty for years is comparable in seriousness to a felony prosecution. The juvenile needs the assistance of coursel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of his proceedings, and to ascertain whether he has a defense and to prepare and submit it. The child "requires the guiding hand of counsel at every step in the proceedings against him. . ." . . .The Due Process Clause. . .requires that in respect of proceedings to determine delinquency which may result in commitment to an institution in which the juvenile's freedom is curtailed, the child and his parent must be notified of the child's right to be represented by counsel retained by them, or if they are unable to afford counsel, that counsel will be appointed to represent the child.[23]

Confrontation, Self-incrimination and Cross-examination:

> [T]he question is whether. . .(in delinquency proceedings) . . .an admission by the juvenile may be used against him in the absence of clear and unequivocal evidence that the admission was made with knowledge that he was not obliged to speak and would not be penalized for remaining silent. . . if the pirvilege against self-incrimination is available. . . (can it be). . .effectively. . .waived unless counsel is present or the right to counsel has been waived. . .The privilege against self-incrimination is. . .related to the question or the questions necessary to assure that the confessions are reasonably trustworthy, that they are not the mere fruits of fear or coercion but are reliable expressions of the truth. . . the constitutional privilege against self-incrimination is

---

[22] 387 U.S. at 33 (1967).

[23] 387 U.S. at 36 (1967).

> applicable in the case of juveniles as it is with respect to adults. . .recommendations in the Children's Bureau's Standards for Juvenile and Family Courts are in general accord with our conclusions. . . .[24]

Following Gault, courts ruled regularly on juvenile court procedures in an effort to delineate the differences between juvenile and adult criminal proceedings. In In re Winship[25] the Supreme Court held that in delinquency proceedings based on criminal conduct the state must prove the criminal conduct beyond a reasonable doubt. The court stopped short of completely paralleling criminal proceedings in 1971,[26] however, when it ruled jury trials were not constitutionally required.

There has been increasing attention paid to the preadjudicatory stage of juvenile proceedings since the fairness at that stage is essential to effectiveness of later protections. Procedural fairness at initial contact, intake, and pretrial detention phases will insure that there is a factual basis for the state's coercive intervention into the life of the juvenile and his family. In Gault the court held that its earlier decision in Miranda v. Arizona[27] was also applicable to juvenile court cases. In Miranda the court had stated that "the prosecutor may not use statements whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant, unless it demonstrates the use of procedural safeguards effective to secure the privilege of self-incrimination." To meet the requirement of due process the juvenile's statement must have been voluntary. In Gault the court pointed out that

> The greatest care must be taken to assure that the admission was voluntary in the sense not only that it was not coerced or suggested, but also that it was not the product of ignorance of right or of adolescent fantasy, fright or despair.[28]

Courts have recently been exploring the question of whether statements made by juveniles out of the presence of their parents can ever be voluntary. Another issue is whether statements to probation officers or social workers must be presumed to be involuntary because a child may feel compelled to speak about the offense to avoid being labeled uncooperative and unsuited for a less restrictive disposition. The trend is to reject automatic rules in favor of stating that, as with age, the absence or presence of parents, or the status of the person to whom the statement is made, are factors to be taken into consideration when deciding from the "totality of circumstances" whether a child's statement has been voluntary.

---

[24] 387 U.S. at 42-56 (1967).

[25] 397 U.S. 358 (1970).

[26] McKewer v. Pennsylvania, 403 U.S. 528 (1971).

[27] 384 U.S. 436 (1966).

[28] 387 U.S. at 55 (1967).

States have legislated in this area, setting out in varying degrees of detail what procedures must be followed in juvenile court. While Gault concerned itself only with adjudication and with delinquents, many states have enacted pre-adjudication protection and have included status offenders within the protected class of juveniles. On the other hand, some state legislation lags behind even the minimum required by Gault, and revision is in order.

Two areas in which there has been fairly recent legislation in some jurisdictions are (1) jury trials for juvenile court, and (2) right to bail for juveniles. Although the Supreme Court held that jury trials were not constitutionally required for juveniles, 11 states require them by statute. There has been no Supreme Court decision on juvenile's right to bail. Thirteen states extend this right to juveniles by statute.

Table 6H contains information from the statutes and Rules of Court in every jurisdiction. Appendix I contains statutory citations to go with Table 6H. It is especially important in this area to realize that the statutes and Rules of Court are only a starting point. Annotated codes should be consulted by those who have a question in this area, because much of a state's law about procedural protection will be contained in court decisions.

### 4. Disposition

After the court has decided that the child comes within the jurisdiction of the juvenile court because of his age and conduct, it must decide what the juvenile court system can do for this particular child. It is in the dispositional phase of juvenile court proceedings that the promise of "treatment rather than punishment" is to be carried out. Parent and child may voice preferences, but the state will make decisions for the child in court.

The juvenile court is given broad discretion and flexibility; although statutes set out a range of dispositions available to the court, they rarely give guidance as to which dispositions might be appropriate for each child. Juvenile cases frequently have purpose clauses which give general guidance. The Standard Juvenile Court Act uses typical language:

> Each child coming within the jurisdiction of the court shall receive, preferably in his own home, the care, guidance and control that will conduce to his welfare and the best interests of the state and. . .when he is removed from control of his parents the court shall secure for him care as nearly possible equivalent to that which they would have given him.

The IJA/ABA Juvenile Justice Standards Project[29] suggests the further guideline: that the least restrictive alternative consistent with the child's culpability and the seriousness of his misconduct shall be selected. A few states[30] have included this requirement in their statutes. Louisiana, for example, states:

---

[29] See note 19, this chapter.

> The court should impose the least restrictive disposition which the court finds consistent with the circumstances of the case, the needs of the child, and the best interests of society. The court shall not remove a child from the custody of his parents unless his welfare or the safety and protection of the public cannot, in the opinion of the court, be adequately safeguarded without such removal.[31]

The only statutory guidance in other jurisdictions is that provided by the legislature when it sets out the appropriate range of dispositions for each category of jurisdiction. Tables 6I, 6J and 6K set out the authorized dispositions for delinquents, status offenders, and dependent/neglected children. The possible dispositions range in seriousness from release to incarceration in a secure institution. Thirteen states allow the courts to be creative by authorizing the court to make such orders as it deems proper. Several legislatures have themselves been creative. New statutes in Indiana and Maine allow the courts to emancipate children. Courts in Maine may order juveniles to make restitution; fines are authorized for delinquents in 20 jurisdictions.

Some jurisdictions allow juvenile courts to make dispositional orders directed at parents. In Nevada, for example, the court may "order the parent, guardian, custodian or any other person to refrain from continuing the conduct or neglect which, in the opinion of the court has caused or tended to cause the child to come within or remain within the provisions of this chapter. . ."[32] In Indiana, a petition may be filed with the juvenile court "to require the participation of a parent, guardian or custodian in a program of care, treatment or rehabilitation for his child."[33]

Out-of-home placement for dependent/neglected children is generally for the purpose of protecting those children during the period when their parents are unable or unwilling to care for them. The expectation is that parents will work on becoming more capable during the period of separation. Out-of-home placement, especially commitment to an institution which houses both delinquents and status offenders, is a severe and frequently damaging disposition for a status offender.

Recent years have seen a strong movement to deinstitutionalize status offenders. This paralleled movement (discussed earlier) to divert status offenders from the juvenile justice system or to treat them with dependent/neglected children as children needing care. Federal leadership has been strong in this area. In 1974, generally dismayed at the lack of success of juvenile justice systems across the country, Congress enacted the Juvenile Justice and Delinquency Prevention Act of 1974.[34] Congress provided for grants to state and local programs involved in planning and establishing more effective education, prevention, diversion, treatment and rehabilitative programs to prevent juvenile delinquency and to improve the juvenile justice system. In Section 5633(9)(12) of the JJDP Act, Congress required that within three years of submission of a plan to receive grant funding a state must remove status offenders from juvenile correctional facilities. States were to develop substitute programs: community based services, foster homes, halfway houses, group homes, homemaker and homehealth services and shelter care facilities.

---

[30] Iowa, Louisiana, Mississippi, Pennsylvania, West Virginia.

[31] LA REV. STAT. ANN. Code of Civil Procedure Art. 86(A).

[32] N. REV. STAT. ANN. Sec. 62.200(1)(a).

[33] 42 U.S.C. Sec. 5601 et seq.

A search of dispositional statutes five years later reveals that only ten states explicitly prohibit placement of status offenders in training schools for delinquents. Fourteen states expressly permit institutional placement with delinquents. Many others allow placement in public agencies or institutions. (See Table 6J.)

The JJDP Act also required participating states to keep all children (delinquent, status offender, dependent/neglected) out of institutions where they would have regular contact with adult offenders.[35] Today eight states explicitly allow placement of delinquents in adult institutions. Six permit placement of status offenders. Oklahoma permits dependent/neglected to be placed in adult institutions. Only 17 states explicitly prohibit placement of juveniles in jails.[36]

Even states which prohibit placing children in jails with adults at the disposition stage allow children to be detained in jails during the pre-trial period. This widespread practice is explicitly condemned in the JJDP Act. Nonetheless, only 16 states prohibit pre-trial detention in jails for all or for some categories of children in their jurisdictions. (See Table 6G.) Seventeen additional jurisdictions prohibit detention of children below a certain age. The minimum age ranges from 10 in New York to 16 in Illinois, District of Columbia, Utah and Puerto Rico.

In efforts to meet criticisms launched at those who detain children in adult jails, most jurisdictions have imposed restrictions on detention. The most common restrictions are that children may only be detained in jails if: there is no juvenile facility, the court orders detention, the child poses a danger to children in juvenile facilities, the jail is approved and/or there is adequate supervision. Jurisdictions additionally impose restrictions on the conditions of detention. Twenty-seven states require that adults and children be kept physically separate; other states require only sight and/or sound separation or separate cells.

---

[34] IND. REV. STAT. ANN. Sec. 31-6-4-17.

[35] 42 U.S.C. Sec. 5633(a)(13).

[36] See Legislative Manual, Note 3, this chapter, "Children in Jails," pp.145-168 and Appendix, p. ix.

The dissatisfaction with institutions which led to deinstitutionalization movements also led to efforts to reform the management of juvenile institutions. The problems of institutions are many. Senator Birch Bayh, Chairman of the Senate Subcommittee to Investigate Juvenile Delinquency, stated in remarks to the committee in 1971:

> Many are beaten, brutalized and exposed to vicious sexual attacks. Punishment, isolation, neglect and abuse seem to be the hallmarks of institutional life. This includes harassment, affront to human dignity and the gross demise of human rights.

Litigation has resulted in some improvements. Arguing either procedural due process (right to treatment is a quid quo for deprivation of procedural protections in commitment) or substantive due process (nature and duration of confinement must bear relationship to purpose of confinement), a number of advocates have brought suit against states. Lower federal courts have found some conditions and practices in institutions to be unconstitutional restrictions on a juvenile's liberty interest.[37] In *Morales v. Turman*,[38] for example, the court condemned a training school's practices and set out minimum standards for staff, recreation activities, correspondence privileges, and plant layout, and for psychological, medical, educational and nutritional services. Other courts have condemned certain rehabilitation and punishment practices such as long-term isolation.

Reform of institutional practices is an area needing legislative attention. Litigation is a time-consuming process; courts are ill-suited to monitoring compliance. In the past two years a small number of states have adopted legislation addressing these issues.[39]

---

[37] E.g., Martarella v. Kelly, 359 F. Supp. 478 (SDNY 1973).

[38] 383 F. Supp. 53 (ED Texas 1974).

[39] *See, e.g.*, *Cal. Welt. & Inst. Code*, Sec. 1766.5, *R.I. Gen. Laws* 42-72-15, W.VA. CODE ANN., Sec. 49.5-16a.

## TABLE 6A

## JUVENILE COURT JURISDICTION BY AGE AND CATEGORY OF CONDUCT

| STATE | DELINQUENT CONDUCT | | | STATUS OFFENDER CONDUCT UNTIL AGE | DEPENDENT NEGLECTED CHILD UNTIL AGE | NO CATEGORIES LISTED |
|---|---|---|---|---|---|---|
| | UNTIL AGE | WITH CERTAIN CRIMES, UNTIL AGE | MIN. AGE | | | |
| Alabama | 18 | -- | | | | |
| Alaska | 18 | -- | | 18 | 18 | |
| Arizona | 18 | -- | | No* | Note a | |
| Arkansas | 18 | -- | 8 | No* | 18 | |
| California | 18 | -- | | 18 | 18 | |
| Colorado | 18 | Note b | | 18 | 18 | |
| Connecticut | 16 | -- | | Note c | 18 | |
| Delaware | 18 | 1st degree murder, rape, kidnapping - no age | | No*<br>Note d | 18<br>18 | |
| District of Columbia | 18 | Note e | | 18 | 18 | |
| Florida | 18 | Punishable by death or life - no age | | No* | 18 | |
| Georgia | 17 | Punishable by death - no age | | 17 | 17 | |
| Guam | | -- | | | | |
| Hawaii | | -- | | -- | -- | 18 |
| Idaho | | -- | | -- | -- | 18 |
| Illinois | 17 | -- | | -- | -- | 18 |
| Indiana | 18 | -- | | 17 | 18 | |
| Iowa | 18 | | | No* | 18 | |
| Kansas | 18 | -- | | No* | 18 | |
| Kentucky | | -- | | 18 | 18 | |
| Louisiana | 17 | Capital crime att. rape - 15 | | --<br>17 | --<br>17 | 18 |

* No indicates that jurisdiction does not have this category. See Table 6D, left-hand columns, for detail. Some jurisdictions have completely eliminated jurisdiction over status offenders; others have included status offenses within conduct defined as delinquent; others have included status offenders in dependent/neglect category.

NOTES:

a) Status offenses and dependency/neglect conduct are combined in new category: child in need of aid.
b) Over 14 - Class 1 felony; Over 16 - Class 2 felony and prior delinquency adjudication; Over 14 - Felony and previously transferred to adult court for a felony.
c) No status offender category. Since 1978 has category: Child Needing Oversight. Any child whose behavior or condition is such as to endanger own or other's welfare. Runaway included within dependency/neglect category.
d) No status offender category. Truancy is in own category.
e) No age = murder, rape, burglary first degree, robbery while armed, assult with intent to commit such offense, traffic.

## TABLE 6A

## JUVENILE COURT JURISDICTION BY AGE AND CATEGORY OF CONDUCT

| STATE | DELINQUENT CONDUCT |  |  | STATUS OFFENDER CONDUCT UNTIL AGE | DEPENDENT NEGLECTED CHILD UNTIL AGE | NO CATEGORIES LISTED |
|---|---|---|---|---|---|---|
|  | UNTIL AGE | WITH CERTAIN CRIMES, UNTIL AGE | MIN. AGE |  |  |  |
| Maine | 18 | -- |  |  |  |  |
| Maryland | 18 | Note g |  | No* | Note f |  |
| Massachusetts | 17 | -- |  | 18 | 18 |  |
| Michigan |  | -- | 7 | 17 | 17 |  |
| Minnesota | 18 | -- |  | -- | -- | 17 |
| Mississippi | 18 | -- |  | No* | 18 |  |
| Missouri |  | -- | 10 | 18 | 18 |  |
| Montana | 18 | -- |  | -- | -- | 17 |
| Nebraska |  | -- |  | 18 | 18 |  |
| Nevada | 18 | Murder, att. murder - no age | 10 | --<br>18 | --<br>18 | 18 |
| New Hampshire | 18 | -- |  |  |  |  |
| New Jersey | 18 | -- |  | 18 | 18 |  |
| New Mexico | 18 | Felony = 16 |  | 18 | No |  |
| New York | 16 | Note h |  | 18 | 18 |  |
| North Carolina | 16 | -- |  | Note i | 18 |  |
| North Dakota | 18 | -- |  | 16 | 18 |  |
| Ohio | 18 | -- |  | 18 | 18 |  |
| Oklahoma | 18 | -- |  | 18 | 18 |  |
| Oregon |  | -- |  | 18 | 18 |  |
| Pennsylvania | 18 | Murder = no age | 10 |  | -- | 18 |
| Puerto Rico |  | -- |  | No* | 18 |  |
| Rhode Island | 18 | -- |  | -- | -- | 18 |
| South Carolina |  | -- |  | 18 | 18 |  |
|  |  |  |  | -- | -- | 17 |

* No indicates that jurisdiction does not have this category. See Table 6D, left-hand columns, for detail. Some jurisdictions have completely eliminated jurisdiction over status offenders; others have included status offenses within conduct defined as delinquent; others have included status offenders in dependent/neglect category.

NOTES:

f) No status offense jurisdiction. Dependency/neglect and runaway are in category called "Child at Risk," administered by Health and Welfare (see Tit. 22-3701, 3792).

g) Over 14 - crime punishable by death or life; Over 16 - robbery with deadly weapon.

h) 13, 14, 15 - Murder 2nd degree, attempted murder; 14, 15 - Kidnapping 1st degree, arson 1st degree, assault 1st degree, rape 1st degree, sodomy 1st degree, burglary 1st or 2nd degree.

i) The statute lists age 16 for females, 18 for males (712b). This has, however, been held by the New York court to be unconstitutional gender discrimination. In re Patricia A., 31 NY 2d 83, 335, NYS 2d 33 (1972).

## TABLE 6A

## JUVENILE COURT JURISDICTION BY AGE AND CATEGORY OF CONDUCT

| STATE | DELINQUENT CONDUCT | | | STATUS OFFENDER CONDUCT UNTIL AGE | DEPENDENT NEGLECTED CHILD UNTIL AGE | NO CATEGORIES LISTED |
|---|---|---|---|---|---|---|
| | UNTIL AGE | WITH CERTAIN CRIMES, UNTIL AGE | MIN. AGE | | | |
| South Dakota | 18 | -- | | 18 | 18 | |
| Tennessee | 18 | -- | | 18 | 18 | |
| Texas | 17 | -- | 10 | 17 | No | |
| Utah | | -- | | -- | -- | 18 |
| Vermont | 18 | -- | | No* | Note j | |
| Virgin Islands | | -- | | -- | -- | 18 |
| Virginia | 18 | -- | | 18 | 18 | |
| Washington | 18 | -- | | Note k | 18 | |
| West Virginia | 18 | -- | | No* | 18 | |
| Wisconsin | 18 | -- | 12 | No* | Note l | |
| Wyoming | 16 | -- | 7 | 16 | 16 | |

* No indicates that jurisdiction does not have this category. See Table 6D, left-hand columns, for detail. Some jurisdictions have completely eliminated jurisdiction over status offenders; others have included status offenses within conduct defined as delinquent; others have included status offenders in dependent/neglect category.

NOTES:

j) Status offender and dependency/neglect are combined in new category: "Child in need of care or supervision."
k) No status offenses. Runaway jurisdiction is under "Families in Conflict" statutes.
l) Status offender and dependency/neglect are combined in new category: "Child in Need of Protection."

## EXPLANATION OF SYMBOLS

### TABLE 6B

### CONDUCT WHICH BRINGS MINOR WITHIN THE JURISDICTION OF JUVENILE COURT

A. Violation of law
B. Neglected
C. Abandoned
D. Behavior endangers own welfare or others
E. Abuse
F. Unfit home
G. Beyond control parents, refuses to obey orders
H. Truant
I. Runaway
J. Traffic offense
K. Idle life
L. Failure to obey court order
M. Custody in controversy
N. Emotional abuse
O. Endangers morals of self or others; sex offense

TABLE 6B

CONDUCT WHICH BRINGS MINOR WITHIN JURISDICTION OF JUVENILE COURT
(No labels in Jurisdictional Statute)

| STATE | JURISDICTION UNTIL AGE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | OTHER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Alabama | | | | | | | | | | | | | | | | | |
| Alaska | | | | | | | | | | | | | | | | | |
| Arizona | | | | | | | | | | | | | | | | | |
| Arkansas | | | | | | | | | | | | | | | | | |
| California | | | | | | | | | | | | | | | | | |
| Colorado | | | | | | | | | | | | | | | | | |
| Connecticut | | | | | | | | | | | | | | | | | |
| Delaware | | | | | | | | | | | | | | | | | |
| District of Columbia | | | | | | | | | | | | | | | | | |
| Florida | | | | | | | | | | | | | | | | | |
| Georgia | | | | | | | | | | | | | | | | | |
| Guam | 18 | X | X | X | X | | | X | | | | | | X | | | |
| Hawaii | 18 | X | X | X | | X | | | | | X | | | | X | | |
| Idaho | 18 | X | | | | X | | | | | X | | | | | | |
| Illinois | | | | | | | | | | | | | | | | | Note a |
| Indiana | | | | | | | | | | | | | | | | | |
| Iowa | | | | | | | | | | | | | | | | | |
| Kansas | | | | | | | | | | | | | | | | | |
| Kentucky | 18 | X | | X | | X | | | | | | | | | | | |
| Louisiana | | | | | | | | | | | | | | | | | Note b |
| Maine | | | | | | | | | | | | | | | | | |
| Maryland | | | | | | | | | | | | | | | | | |
| Massachusetts | | | | | | | | | | | | | | | | | |
| Michigan | 17 | X | X | X | | X | X | X | X | X | | X | | | X | | |
| Minnesota | | | | | | | | | | | | | | | | | |
| Mississippi | | | | | | | | | | | | | | | | | |
| Missouri | 17 | | X | | X | | | | | | | | | | | | |

NOTES:

a) Add"places for adoption," "parent unable to provide care."
b) Add "beyond control of school."

## TABLE 6B

## CONDUCT WHICH BRINGS MINOR WITHIN JURISDICTION OF JUVENILE COURT
(No labels in Jurisdictional Statute)

| STATE | JURISDICTION UNTIL AGE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | OTHER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Montana | | | | | | | | | | | | | | | | | |
| Nebraska | 18 | X | X | X | X | | | X | X | X | X | | | | | | |
| Nevada | | | | | | | | | | | | | | | | | |
| New Hampshire | | | | | | | | | | | | | | | | | |
| New Jersey | | | | | | | | | | | | | | | | | |
| New Mexico | | | | | | | | | | | | | | | | | |
| New York | | | | | | | | | | | | | | | | | |
| North Carolina | | | | | | | | | | | | | | | | | |
| North Dakota | | | | | | | | | | | | | | | | | |
| Ohio | | | | | | | | | | | | | | | | | |
| Oklahoma | | | | | | | | | | | | | | | | | |
| Oregon | 18 | X | X | | X | | | X | | X | X | | X | | | | |
| Pennsylvania | | | | | | | | | | | | | | | | | |
| Puerto Rico | 18 | X | X | | X | | | X | | | | | | X | | X | |
| Rhode Island | | | | | | | | | | | | | | | | | |
| South Carolina | 17 | X | X | X | X | | | X | | | | | | X | | | |
| South Dakota | | | | | | | | | | | | | | | | | |
| Tennessee | | | | | | | | | | | | | | | | | |
| Texas | | | | | | | | | | | | | | | | | |
| Utah | 18 | | X | | | | | | X | | | | | X | | | |
| Vermont | | | | | | | | | | | | | | | | | |
| Virgin Islands | | | | | | | | | | | | | | | | | |
| Virginia | | | | | | | | | | | | | | | | | |
| Washington | | | | | | | | | | | | | | | | | |
| West Virginia | | | | | | | | | | | | | | | | | |
| Wisconsin | | | | | | | | | | | | | | | | | |
| Wyoming | | | | | | | | | | | | | | | | | |

## EXPLANATION OF SYMBOLS

## TABLE 6C

## STATUTORY ANALYSIS - DELINQUENCY JURISDICTION

A. Violated any penal law of the United States.
B. Violated any penal law of the state.
C. Violated any penal law of another state.
D. Violated any regulation or ordinance of a municipality, city or county.
E. Beyond control, incorrigible or habitually disobedient.
F. Runaway.
G. Leading an idle, lewd, dissolute and immoral life.
H. Commits an offense which only can be committed by a child.
I. Failure to obey a lawful order of the juvenile court.
J. Deports self so as to be a danger to self or others.
K. Truant; beyond control of school authorities.
L. Commission of certain traffic offenses.
M. Status offender violates court-ordered condition of probation.
N. Violation of substance abuse ordinance (glue sniffing, possession usable amount marijuana, use of liquor).
O. AND needs care or rehabilitation.

TABLE 6C

STATUTORY ANALYSIS - DELINQUENCY JURISDICTION

| STATE | CONDUCT WHICH BRINGS CHILD WITHIN COURT'S JURISDICTION | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A | B | C | D | E | F | G | H | I | J | K | L | M | N | AND O* | OTHER |
| Alabama | X | X | X | X | | | | | | | | | | | X | |
| Alaska | | X | | X | | | | | | | | | | | | |
| Arizona | X | X | X | X | | | | X | X | | | | X | | | |
| Arkansas | | X | | | | | | | | | | | | | | |
| California | X | X | | X | | | | | | | | | | | | |
| Colorado | X | X | | Y | | | | | X | | | | | | | |
| Connecticut | X | X | X | X | X | X | X | | X | | X | | | | | |
| Delaware | X | X | X | X | X | | | | | X | N a | | | | | |
| District of Columbia | X | X | X | | | | | | | | | | | | X | |
| Florida | X | X | X | X | | | | | X | | | | | | | Note b |
| Georgia | X | X | X | X | | | | X | X | | | | | N c | X | |
| Guam | (No labels) | | | | | | | | | | | | | | | |
| Hawaii | (No labels) | | | | | | | | | | | | | | | |
| Idaho | (No labels) | | | | | | | | | | | | | | | |
| Illinois | X | X | X | X | | | | | | | | | | | | |
| Indiana | X | X | X | X | X | X | | X | | | X | | | | N d | |
| Iowa | X | X | X | X | | | | | | | | | | | | |
| Kansas | | N e | | | | | | | | | | | | | | |

* Check in this column indicates jurisdiction depends on conduct in other columns plus need for care or rehabilitation.

NOTES:

a) Includes beyond control of school, but not truant.
b) Add "escape from secure facility."
c) Includes patronizing a bar where liquor is sold.
d) If underlying conduct is status offense, then must show needs care or rehabilitation.
e) Violates a law which if done by an adult would amount to a felony.

## TABLE 6C

## STATUTORY ANALYSIS - DELINQUENCY JURISDICTION

| STATE | CONDUCT WHICH BRINGS CHILD WITHIN COURT'S JURISDICTION | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A | B | C | D | E | F | G | H | I | J | K | L | M | N | AND O* | OTHER |
| Kentucky | (No labels) | | | | | | | | | | | | | | | |
| Louisiana | X | X | X | X | | | | | X | | | X | | | | |
| Maine | X | X | X | X | | | | | X | | | | | X | | |
| Maryland | X | X | X | X | | | | | | | | | | | | |
| Massachusetts | | X | | X | | | | | | | | | | | | |
| Michigan | (No labels) | | | | | | | | | | | | | | | |
| Minnesota | X | X | X | X | X | | | | | | X | | | | | |
| Mississippi | X | | | | | | | | | | | | | | | |
| Missouri | (No labels) | | | | | | | | | | | | | | | |
| Montana | X | X | X | X | | | | | X | | | | | | | |
| Nebraska | (No labels) | | | | | | | | | | | | | | | |
| Nevada | X | X | X | X | | | | | X | | | | X | | | |
| New Hampshire | X | X | X | | | | | | | | | | | | X | |
| New Jersey | X | X | X | X | | | | | | | | | | | | |
| New Mexico | X | X | X | X | | | | | | | | | | | X | |
| New York | X | X | X | X | X | | | | | | | | X | | X | |
| North Carolina | | X | | X | | | | | | | | | | | | |
| North Dakota | X | X | X | X | | | | | | | | | | | X | |

* Check in this column indicates jurisdiction depends on conduct in other columns plus need for care or rehabilitation.

## TABLE 6C

## STATUTORY ANALYSIS - DELINQUENCY JURISDICTION

| STATE | CONDUCT WHICH BRINGS CHILD WITHIN COURT'S JURISDICTION | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A | B | C | D | E | F | G | H | I | J | K | L | M | N | AND O* | OTHER |
| Ohio | X | X | | | | | | | X | | | | | | | |
| Oklahoma | X | X | | X | | | | | X | | | X | | | | |
| Oregon | (No labels) | | | | | | | | | | | | | | | |
| Pennsylvania | X | X | X | X | | | | | | | | | X | | X | |
| Puerto Rico | (No labels) | | | | | | | | | | | | | | | |
| Rhode Island | N f | N f | N f | N f | | | | | | | | | | | | |
| South Carolina | (No labels) | | | | | | | | | | | | | | | |
| South Dakota | X | X | X | X | | | | | | | | | | | | |
| Tennessee | X | X | X | X | | | | | | | | | | | X | |
| Texas | | X | | X | | | | | X | | X | | X | X | | |
| Utah | (No labels) | | | | | | | | | | | | | | | |
| Vermont | X | X | X | | | | | | | | | | | | | |
| Virgin Islands | X | | | | | | | | | | | | | | X | |
| Virginia | X | X | | X | | | | | | | | X | | | | |
| Washington | X | X | X | X | | | | | | | | | | | | |
| West Virginia | X | X | X | X | X | X | | X | X | X | X | | | | | Note g |
| Wisconsin | X | X | X | N h | | | | | | | | | | | | |
| Wyoming | X | X | X | X | | | | | | | | | | | | |

* Check in this column indicates jurisdiction depends on conduct in other columns plus need for care and rehabilitation.

NOTES:

f) If conduct amounts to a felony, or if violates law more than once.
g) Add "engages in an illegal occupation," and "associates with immoral companions."
h) If violates civil law or ordinance, court has jurisdction but not under delinquency. State has a separate category.

## EXPLANATION OF SYMBOLS

## TABLE 6D

## STATUTORY ANALYSIS - STATUS OFFENDER JURISDICTION

A. Persistently refuses to obey the reasonable and proper directions of parents, guardian or other custodian.
B. Is a runaway.
C. Has committed a misdemeanor.
D. Is beyond the control of school authorities.
E. Is an habitual truant from school.
F. Is in danger of leading an idle life.
G. Child below certain age commits a delinquent act.
H. Violates a drug or alcohol statute or ordinance.
I. Is in danger of leading an immoral life.
J. Is a wayward child.
K. Endangers the health of himself and others.
L. Endangers the morals of himself and others.
M. Associates with vagrant, vicious or immoral persons.
N. Has committed an offense applicable only to a minor.
O. Has committed a delinquent act and needs supervision.
P. Violation of curfew.
Q. Is a drug addict, or habitually consumes drugs.
R. Violation of a juvenile court order.
S. Is a vagrant.
AND T. In addition to listed conduct, must show needs care or rehabilitation.

TABLE 6D

STATUTORY ANALYSIS - STATUS OFFENDER JURISDICTION

| STATE | NO PINS | | | CONDUCT WHICH BRINGS CHILD WITHIN COURT'S JURISDICTION | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | NO LABELS * | WITH DEP/ NEGLECT | WITH DELIN- QUENCY | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | AND T | OTHER |
| Alabama | | | | X | | | | X | | | | | | | | | X | | | | | | X | |
| Alaska | | X | | | | | | | | | | | | | | | | | | | | | | |
| Arizona | | | | X | X | | | X | | | | | | | | | | | | | | | | |
| Arkansas | | | | X | X | | | X | | | | | | X | | | | | | | | | X | |
| California | | | | X | | | | X | | | | | | | | | X | | X | | | | | |
| Colorado | | Na | | | | | | | | | | | | X | X | | | | | | | | | |
| Connecticut | | | X | | | | | | | | | | | | | | | | | | | | | |
| Delaware | | | | | | | | Nb | | | | | | | | | | | | | | | | |
| District of Columbia | | | | X | | | | X | | | | | | | | | X | | | | | Nc | | |
| Florida | | X | | | | | | | | | | | | | | | | | | | | | | |
| Georgia | | | | X | X | X | | X | X | Nd | | | | | | | X | X | X | | X | | X | |
| Guam | X | | | | | | | | | | | | | | | | | | | | | | | |
| Hawaii | X | | | | | | | | | | | | | | | | | | | | | | | |
| Idaho | X | | | | | | | | | | | | | | | | | | | | | | | |
| Illinois | | | | X | | | | X | | | | | | | | | | | | X | X | | | |
| Indiana | | | X | | | | | | | | | | | | | | | | | | | | | |
| Iowa | | Ne | | | | | | | | | | | | | | | | | | | | | | |
| Kansas | | | | X | X | | | X | | | | | | X | X | | | | | | | | | |

* In some jurisdictions conduct is not broken down into categories with labels. See Table 6B.

NOTES:

a) Some status offenses are included in dependency/neglect category.
b) Separate category for truancy, but no other status offender jurisdiction.
c) Or in need of care and rehabilitation.
d) Patronizing bar.
e) Iowa removed status offenses from jurisdiction of juvenile court. Conduct is under "Child in Need of Assistance" Statute.

TABLE 6D

## STATUTORY ANALYSIS - STATUS OFFENDER JURISDICTION

| STATE | NO PINS |  |  | CONDUCT WHICH BRINGS CHILD WITHIN COURT'S JURISDICTION |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | NO LABELS | WITH DEP/ NEGLECT | WITH DELIN- QUENCY | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | AND T | OTHER |
| Kentucky | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Louisiana |  |  |  | X | X |  |  | X |  |  |  |  |  | X | X |  |  |  |  |  | X |  |  |  |
| Maine |  | Nf |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Maryland |  |  |  | X | X |  |  | X |  |  |  |  |  | X | X |  | X |  |  |  |  |  |  |  |
| Massachusetts |  |  |  | X | X |  | X | X |  |  |  |  |  |  |  |  |  |  |  |  | X |  |  |  |
| Michigan | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Minnesota |  |  | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Mississippi |  |  |  | X | X |  | X | X |  | X |  |  |  |  |  |  |  | X |  |  |  |  | X |  |
| Missouri | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Montana |  |  |  | X |  |  |  | X |  |  | X |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Nebraska | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Nevada |  |  |  | X | X |  |  | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| New Hampshire |  |  |  | X | X | X |  | X |  | X |  |  |  |  |  |  |  |  |  |  |  |  | X |  |
| New Jersey |  |  |  | X |  |  |  | X | X |  |  | X |  | X | X |  | X |  |  |  |  |  |  |  |
| New Mexico |  |  |  | X |  |  |  | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  | X |  |
| New York |  |  |  | X |  | X | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | X |  |
| North Carolina |  |  |  | X | X |  |  | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | Ng |
| North Dakota |  |  |  | X |  |  |  | X |  |  |  |  |  | X | X |  | X |  |  |  |  |  | X |  |

NOTES:

f) Maine has no status offense jurisdiction. Runaways are included in dependency/neglect category.
g) Add "regularly found in places it is unlawful to be."

## TABLE 6D

## STATUTORY ANALYSIS - STATUS OFFENDER JURISDICTION

| STATE | NO PINS | | | CONDUCT WHICH BRINGS CHILD WITHIN COURT'S JURISDICTION | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | NO LABELS | WITH DEP/ NEGLECT | WITH DELINQUENCY | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | AND T | OTHER |
| Ohio | | | | X | | | | X | | | | | X | X | X | | X | | | | | X | | Nh |
| Oklahoma | | | | X | X | | | | | | | | | | | | | | | | | | | |
| Oregon | X | | | | | | | | | | | | | | | | | | | | | | | |
| Pennsylvania | | X | | | | | | | | | | | | | | | | | | | | | | |
| Puerto Rico | X | | | | | | | | | | | | | | | | | | | | | | | |
| Rhode Island | | | | X | X | | | X | | | | X | | | | X | | | | | | | | |
| South Carolina | X | | | | | | | | | | | | | | | | | | | | | | | |
| South Dakota | | | | X | X | | | X | | | | | | X | X | | | | | | | | | |
| Tennessee | | | | X | | X | | | X | X | | | | | | | X | | | | | | X | |
| Texas | | | | | X | Ni | | X | | | X | | | | | | | | | | | | | |
| Utah | X | | | | | | | Nj | | | | | | | | | | | | | | | | |
| Vermont | | Nk | | | | | | | | | | | | | | | | | | | | | | |
| Virgin Islands | | | | X | X | | | X | | | | | | | | | | | | X | | | | |
| Virginia | | | | X | X | | | X | | | | | | | | | X | | | | | | X | |
| Washington | | | | | Nl | | | | | | | | | | | | | | | | | | | |
| West Virginia | | | X | | | | | | | | | | | | | | | | | | | | | |
| Wisconsin | | Nm | | | | | | | | | | | | | | | | | | | | | | |
| Wyoming | | | | X | X | | X | | | | | | | | | | | | | | | | | |

NOTES:

h) Add "tries to marry in any state without consent."
i) On three or more occasions, misdemeanor violations.
j) Has separate provision for truancy only.
k) Combined with dependent/neglected children into Children in Need of Care or Supervision category.
l) Runaway is only recognized status offense after 1979 enactment of Families Conflict Act.
m) Combined with dependent/neglected children into Children Alleged to be in Need of Protection or Services.

## EXPLANATION OF SYMBOLS

## TABLE 6E

## STATUTORY ANALYSIS - DEPENDENT OR NEGLECTED CHILDREN

A. Parents, guardian or custodian fail to provide subsistence, education, medical care or any other care necessary to health and well-being.
B. Living conditions injurious to well-being.
C. Parents, guardian, custodian unable to provide special care needed because of child's physicial or mental condition.
D. Truant.
E. Beyond control.
F. Runaway.
G. Abandoned.
H. Physicial Abuse.
I. Placed for adoption in violation of law.
J. Behavior injurious to own welfare or others.
K. Sexual Abuse.
L. Destitute, homeless.
M. In need of care of protection.
N. Unfit home by reason of parent's neglect, cruelty, depravity.
O. Risk of imminent harm or abuse.
P. Parent unable to discharge duties because hospitalized, incarcerated or otherwise incapacitated.
Q. Emotional deprivation, abuse.

## TABLE 6E

## STATUTORY ANALYSIS - DEPENDENT OR NEGLECTED CHILDREN

| STATE | NO LABELS * | NO DEP/ NEGLECT | CONDUCT WHICH BRINGS CHILD WITHIN COURT'S JURISDICTION | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | OTHER |
| Alabama | | | X | | | | | | X | X | X | | | X | X | X | | X | X | Na |
| Alaska | | | X | | | | | X | X | X | | | X | | | | | | | Nb |
| Arizona | | | X | | | | | | | | | | | X | | X | | | | |
| Arkansas | | | X | | | | | | | | | X | | | X | X | X | | X | Nc |
| California | | | X | | | | | | | X | | X | X | X | | X | | | | |
| Colorado | | | X | X | Nd | | | X | X | | | | | X | | | | | | |
| Connecticut | | | X | X | Ne | | | | X | | | | | | | | | | | |
| Delaware | | | X | | | | | | | | | | | | | | | | | |
| District of Columbia | | | X | | | | | | X | X | | | | | | | Nf | X | | |
| Florida | | | X | | | X | X | | X | X | X | | | | | | | | | |
| Georgia | | | X | | | | | | | | X | | | | | | | | | |
| Guam | X | | | | | | | | | | | | | | | | | | | |
| Hawaii | X | | | | | | | | | | | | | | | | | | | |
| Idaho | X | | | | | | | | | | | | | | | | | | | |
| Illinois | | | X | X | | | | | | | | | X | | | | | | | |
| Indiana | | | X | | | | | | | | | X | X | | | | | | | Ng |

* In some jurisdictions conduct is not broken down into categories with labels. See Table 6B.

NOTES:

a) Add "custody is subject of controversy."
b) Add "delinquency is result of parental pressure."
c) Add "child under 8 who is delinquent or incorrigible."
d) Unable to provide special care for financial reasons.
e) This conduct is labeled "dependent." X'd conduct is labeled "neglected."
f) Imminent danger and sibling being abused.
g) Add "in need of services."

## TABLE 6E

## STATUTORY ANALYSIS - DEPENDENT OR NEGLECTED CHILDREN

| STATE | NO LABELS | NO DEP/ NEGLECT | CONDUCT WHICH BRINGS CHILD WITHIN COURT'S JURISDICTION | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | OTHER |
| Iowa | | | X | X | | | | | | | | | | | | | | X | | |
| Kansas | | | X | | | | | | X | X | X | | X | | | | | | X | |
| Kentucky | X | | | | | | | | | | | | | | | | | | | |
| Louisiana | | | X | | | | | | X | | X | | | | | | | X | | |
| Maine | | Nh | Nh | | | | | Nh | Nh | Nh | | | | | | | | | | |
| Maryland | | | X | | X | | | | | | | | | | | | | | | |
| Massachusetts | | | X | | | | | | | | | | | | | | | | | |
| Michigan | X | | | | | | | | | | | | | | | | | | | |
| Minnesota | | | X | X | X | | | | X | | X | | | | | | | Ni | | |
| Mississippi | | | X | | X | | | | | X | | | | | | | | | | |
| Missouri | X | | | | | | | | | | | | | | | | | | | |
| Montana | | | X | | | | | X | | X | | | X | X | | | | | X | |
| Nebraska | X | | | | | | | | | | | | | | | | | | | |
| Nevada | | | X | | | | | | X | | X | | | | | | | X | | |
| New Hampshire | | | X | | | | | | X | X· | | | X | | | | | X | X | |
| New Jersey | | X | | | | | | | | | | | | | | | | | | |
| New Mexico | | | X | | | | | | X | X | X | | X | | | | X | X | X | |
| New York | | | X | | | | | X | X | X | | | X | X | | | X | | | |
| North Carolina | | | X | X | | | | | X | Nj | Nj | | Nj | | | | | | Nj | |
| North Dakota | | | X | | | | | | X | | X | | | | | | | | | |

NOTES:

h) Handled by Health and Welfare (Title 22, Sec. 3792) in district court or probate court. Statute covers abused, neglected, abandoned, exploited or runaway. Secs. 3701(2)

i) This conduct labeled "dependent." X'd conduct is labeled "neglected." Add to conduct labeled "dependent": "parent for good cause wishes to be relieved of care and custody;" "delinquency results from parental neglect," and "special needs."

j) This conduct is labeled "abused." X'd conduct is labeled "neglected."

## TABLE 6E

## STATUTORY ANALYSIS - DEPENDENT OR NEGLECTED CHILDREN

| STATE | NO LABELS * | NO DEP/ NEGLECT | CONDUCT WHICH BRINGS CHILD WITHIN COURT'S JURISDICTION | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | OTHER |
| Ohio | | | X | | X | | | | X | Nk | X | | Nk | Nl | Nl | | | Nl | | |
| Oklahoma | | | | | X | X | | | X | | | | | X | | X | | | | |
| Oregon | X | | | | | | | | | | | | | | | | | | | |
| Pennsylvania | | | X | | | X | X | | | | X | X | | | | | | | | Nm |
| Puerto Rico | X | | | | | | | | | | | | | | | | | | | |
| Rhode Island | | | | | | | | | X | X | | | | X | | X | | | | Nn |
| South Carolina | X | | | | | | | | | | | | | | | | | | | |
| South Dakota | | | X | X | | | | | | X | | | | X | | | | | | |
| Tennessee | | | X | | | X | | | X | X | | X | | | | X | | | X | |
| Texas | | X | | | | | | | | | | | | | | | | | | |
| Utah | X | | | | | | | | | | | | | | | | | | | |
| Vermont | | | X | | | | X | | X | X | | | | | | | | | | |
| Virgin Islands | | | X | | | | | | X | | | | | | | | | | | |
| Virginia | | | X | | | | | | X | X | | | X | | | | X | | | |
| Washington | | | X | | | | | | X | X | | | | | | | | | | Np |
| West Virginia | | | X | X | | | | | X | | | | | X | | X | | | | |
| Wisconsin | | | X | | X | X | | | X | X | X | | X | | | | | X | X | Nq |
| Wyoming | | | X | | | | | | X | X | | | | | | | | X | | |

NOTES:

k) This conduct is labeled "abused." X'd conduct is labeled "neglected."
l) This conduct is labeled "dependent."
m) Add "delinquent act by child under 10."
n) Add "child dependent on public for support."
p) Add "child likely to become delinquent, in conflict with parents."
q) Add "child under 12 committing delinquent act."

TABLE 6F

WAIVER OF JUVENILE COURT JURISDICTION

| STATE | MINIMUM AGE | NATURE OF CRIME | DISCRETION OF |  |  | CRITERIA FOR WAIVER; CONSIDER |  |  | RIGHTS |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  |  | COURT | PROSECUTION | CHILD | NOT AMENABLE TO JUVENILE COURT TREATMENT | NEEDED TO PROTECT SOCIETY | SHOWING THAT THAT CHILD DID COMMIT ACT | HEARING | WITH COURT | WITH NOTICE | TRANSCRIPT |
| Alabama | 14 | Felony (or already committed as del.) | X | May motion |  | Prior history demeanor, | Nature of offense, interests of community |  | X |  | X |  |
| Alaska | None | Not restricted | X |  |  | History of delinquency | Seriousness of offense | Probable cause | X | X | X |  |
| Arizona | 15 | Not restricted | X |  | X | X | X | Probable cause (unless waived) | X | X | X |  |
| Arkansas | None | Felony misdemeanor |  |  |  | (not enumerated in statutes) |  |  |  |  |  |  |
| California | 16 | Violate any criminal statute | X<br>(Petitioner motion) |  |  | X |  | Alleged | X | X |  |  |
| Colorado | 14 | Felony<br>Note a |  |  |  | X | X | Probable cause | X | X | X | X |
| Connecticut | 14 | Murder | X |  |  | X | X | Reasonable cause | X | X | X |  |
|  | 14 | 2nd felony | X |  |  | X | No | Probable cause | X | X | X |  |
| Delaware | 16 | Murder, rape, kidnapping, delinquent act | X |  |  | X | X | Alleged | X | X | X | X |
| District of Columbia | Note b | Felony or 2nd delinquency | X |  |  | X |  | Alleged | X | X |  |  |

NOTES:

a) D.A. may refuse by not filing information within five days 19-3-108 (4)(A).

b) 15 or over (felony); 16 or over (already adjudicated delinquent); 18 or over (committed act before turned 18).

Statistics for this table were taken from the Legislative Manual for the Second National Juvenile Justice Legislative Advocacy Conference, St. Louis, Missouri, November 11-13, 1979, pp. 100A-100N. Permission granted by The National Juvenile Law Center, Inc., St. Louis, Missouri.

## TABLE 6F

## WAIVER OF JUVENILE COURT JURISDICTION

| STATE | MINIMUM AGE | NATURE OF CRIME | DISCRETION OF |  |  | CRITERIA FOR WAIVER; CONSIDER |  |  | RIGHTS |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  |  | COURT | PROSECUTION | CHILD | NOT AMENABLE TO JUVENILE COURT TREATMENT | NEEDED TO PROTECT SOCIETY | SHOWING THAT THAT CHILD DID COMMIT ACT | HEARING | WITH COURT | WITH NOTICE | TRANSCRIPT |
| Florida | 14 | Any crime | X |  | X | X | X | Alleged (and prosecutorial merit of complaint) | X | X |  |  |
| Georgia | Note c | Any crime | X |  |  | X | X | Reasonable grounds | X | X | X | X |
| Guam | No | statute |  |  |  |  |  |  |  |  |  |  |
| Hawaii | 16 | Felony | X |  |  | X | X | Alleged | X |  |  |  |
| Idaho | 15 | Any crime | Note d |  |  | X | X | Alleged | X | X | X | X |
| Illinois | 13 | Crimes | X |  | X | X | X | Alleged | X |  | X |  |
| Indiana | 14 | Crime Note e | X | Motion |  | X | X | Probable cause to believe case has specific pros. merit | X |  |  |  |
| Iowa | 14 | Public offense | X | Motion | X | X | X | Probable cause | X | X | X | X |
| Kansas | 16 | Crime | X | Motion |  | X | X | Alleged | X | X | X | * |
| Kentucky | 16<br>None | Felony<br>Capital | X<br>X |  |  | X<br>X | X<br>X | Probable cause | X<br>X |  | X<br>X |  |
| Louisiana | 15 | Note f | X | Motion |  | X |  |  | X | X | X | Note g |
| Maine | None | Any crimes |  | X |  | X | X | Probable cause | X | X | X | X |

* minutes

NOTES:

c) 15 for lesser crimes, 13 or 14 for capital offenses.

d) Motion may be made by court, prosecutor or child.

e) If heinous offense or repeat pattern.

f) Any crime if previously adjudicated delinquent for specified offenses. No previous adjudication necessary if charged with armed robbery or crime punishable by life.

g) If requested or ordered by court.

TABLE 6F

## WAIVER OF JUVENILE COURT JURISDICTION

| STATE | MINIMUM AGE | NATURE OF CRIME | DISCRETION OF | | | CRITERIA FOR WAIVER; CONSIDER | | | RIGHTS | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | COURT | PROSECUTION | CHILD | NOT AMENABLE TO JUVENILE COURT TREATMENT | NEEDED TO PROTECT SOCIETY | SHOWING THAT THAT CHILD DID COMMIT ACT | HEARING | WITH COURT | WITH NOTICE | TRANSCRIPT |
| Maryland | 15<br>Note h | Delinquency | X | X<br>Note i | | X | X | Court assumes for waiver that child did commit | X | X | X | |
| Massachusetts | 14 | Note j | X | | | X | X | Probable cause | X | X | X | Note k |
| Michigan | 15 | Felony | X | Motion | | X | X | Probable cause | X | X | X | |
| Minnesota | 14 | State or local ordinance | X | May Motion | May Motion | X | X | Alleged | X | X | X | X |
| Mississippi | 13 | Felony | X | | | (Not enumerated in statute) | | Charged | X | X | X | |
| Missouri | 14 | Note l | X | | Motion | X | | Alleged | X | X | X | |
| Montana | 16 | Note m | X | Motion | | X And | X And | Reasonable grounds and aggressive, violent, premeditated | X | X | X | |
| Nebraska | (County attorney decides whether to file in juvenile or criminal.) | | | | | | | | | | | |
| Nevada | 16 | Felony | X | | | (Not enumerated in statute) | | | Nn | | | |

NOTES:

h) Younger if crime punishable by death or life.

i) On own motion or that of state's attorney.

j) Child previously adjudicated delinquent and present offense punishable by imprisonment; offense involved infliction or threat of serious bodily harm.

k) Finding in writing.

l) Felony, traffic offense. Child between 17-21 over whom jurisdiction has been retained; criminal homicide; arson; rape; aggravated assault; robbery; burglary; aggravated kidnapping; possession of explosives; sale of dangerous drugs for profit.

m) Homicide; arson, aggravated assault; robbery; burglary; rape; aggravated kidnapping; possession of explosives; sale of drugs for profit.

n) Requires full investigation.

TABLE 6F

## WAIVER OF JUVENILE COURT JURISDICTION

| STATE | MINIMUM AGE | NATURE OF CRIME | DISCRETION OF |  |  | CRITERIA FOR WAIVER; CONSIDER |  |  | RIGHTS |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  |  | COURT | PROSECUTION | CHILD | NOT AMENABLE TO JUVENILE COURT TREATMENT | NEEDED TO PROTECT SOCIETY | SHOWING THAT THAT CHILD DID COMMIT ACT | HEARING | WITH COURT | WITH NOTICE | TRANSCRIPT |
| New Hampshire | None | Felony | X | X | If less than 17 | X | X | Prosecutive merit of complaint | X |  | X |  |
| New Jersey | 14 | Note o | X |  | X | X | X | Probable cause | X |  | X |  |
| New Mexico | Note p | Note p | X |  |  | X | Interests of community | Reasonable grounds | X | X | X | X |
| New York | None | Not restricted | X |  |  | (Not enumerated in statute) |  |  |  |  |  |  |
| North Carolina | 14 | Felony, Note q | X |  |  | Needs of child | Interests of community | Hearing to determine probable cause | X | X | X |  |
| North Dakota | 16 | Crime or public offense | X |  | If less than 17 | X | Interests of community | Reasonable grounds | X | X | X | X |
| Ohio | 15 | Felony | X |  |  | X | X | Probable cause | X | X | X | Upon request |
| Oklahoma | None | Felony | X |  |  | X | X | Prosecutory merit to complaint | X | X | X |  |
| Oregon | 16 | Crime, violates ordinance | X |  |  | X |  | Committed or alleged to commit | NP |  |  |  |
| Pennsylvania | 14 | Felony | X |  | May request | X | Interests of community required | Prima facie case | X | X | X |  |
| Puerto Rico | Over 16 | Violate commonwealth law | X |  |  | X | X |  |  |  |  |  |

NOTES:

o) Homicide; treason; violent crime; drugs (addict can't be waived).

p) 16 or older, felony; 15 or older, murder. Certain crimes(13-14-27.1): assault with intent to commit violent felony; kidnap; aggravated battery; dangerous use of explosives; rape; robbery; aggravated burglary.

q) Waiver mandatory for capital offenses.

TABLE 6F

## WAIVER OF JUVENILE COURT JURISDICTION

| STATE | MINIMUM AGE | NATURE OF CRIME | DISCRETION OF |  |  | CRITERIA FOR WAIVER; CONSIDER |  |  | RIGHTS |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  |  | COURT | PROSECUTION | CHILD | NOT AMENABLE TO JUVENILE COURT TREATMENT | NEEDED TO PROTECT SOCIETY | SHOWING THAT THAT CHILD DID COMMIT ACT | HEARING | WITH COURT | WITH NOTICE | TRANSCRIPT |
| Rhode Island | 16 | Two offenses after 16 | X |  |  | X | X |  | X |  |  |  |
| South Carolina | None | Murder, rape | X |  |  |  |  |  | NP |  |  |  |
| South Dakota | None | Crimes | X |  |  | X | X | Prosecutory merit of complaint | X |  | X |  |
| Tennessee | Note r | Note r | X |  |  | X | X | Reasonable grounds | X | X | X | Minutes |
| Texas | 15 | Felony | X |  |  | X | X | Evidence grand jury would return indictment | X | X | X | X |
| Utah | 14 | Felony | X |  |  |  |  | Alleged | X |  | X | X |
| Vermont | No | Statute |  |  |  |  |  |  |  |  |  |  |
| Virginia | 15 | Punishable by imprisonment | X |  | Note s | X (Except armed robbery, rape, murder) | Interests of community required | Probable cause | X | X | X |  |
| Virgin Islands | 16 | Note t | Note t |  |  | X | X |  | X | X | X |  |
| Washington | 16 | Class A | X | May Motion | May Motion | Best interests of juvenile or public |  |  | X | X | X | X |
| West Virginia | 16 |  | X |  |  | X | X | Probable cause | X | X | X | X |
| Wisconsin | 16 |  | X |  |  | X | X | Judge determines pros. merit | X | X | X | X |
| Wyoming | None | Crimes | X | Cty Atty. decides |  |  |  | Reasonable grounds | X | X | X | X |

NOTES:

r) 16, crime or ordinance; 15, murder, manslaughter, rape, robbery with deadly weapon, kidnapping.

s) Prosecutor may make motion; may appeal if court decides to retain and crime is punishable by death or more than 20 years imprisonment.

t) If 1st degree arson, assault, burglary, extortion, mayhem, incendiarism, grand larceny, forgery, carnal abuse of child less than 16, rape, robbery or murder than court shall transfer. In all other court has discretion to transfer

u) 2nd degree assault; 1st degree extortion; indecent liberties; 2nd degree kidnapping, rape, robbery.

## EXPLANATION OF SYMBOLS

### TABLE 6G

### PRE-TRIAL INCARCERATION OF JUVENILES WITH ADULTS

Requirements:

A. Adequate supervision
B. No Juvenile facility available
C. By court order
D. Child menace to community
E. Child menace to other detainees
F. Child awaiting transportation
G. Facility is approved
H. Other

Type of Separation:

I. Physical
J. Sight and sound separation; no communication or contact
K. Separate cell
L. Other

## TABLE 6G

## PRE-TRIAL INCARCERATION OF JUVENILES WITH ADULTS

| | PROHIBITED | | PERMITTED UNDER CERTAIN CONDITIONS | | | | | | | | | TYPE OF SEPARATION | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| STATE | ALL | BELOW AGE | MIN. AGE | A | B | C | D | E | F | G | H | I | J | K | L | CRITERIA CUMULATIVE |
| Alabama | | | | D | D | | | | | D | | D | | | | X |
| Alaska | | | | | | | | | | DSN | | DSN | | | | |
| Arizona | DSN | | | | | | | | | | | DSN | | | | |
| Arkansas | S | | | | | | | | | | | D | | | | |
| California | SN | | | | D | | | | | | | D | | | | |
| Colorado | | 14 | 14<br>Note a | | DSN | DSN | | | | | | | | | DSN | X |
| Connecticut | DS | | | | | | | | | | | | | | | |
| Delaware | | | | | | | | | | | | | | | | |
| District of Columbia | SN | | 16 | | | | | D | | | | | | | D | |
| Florida | | | | DSN | | DSN | | | | | Note b | | | DSN | | |
| Georgia | SN | | | | | Note c | | | | | | D | | | | |
| Guam | | | | | | | | | | | | | | | | |
| Hawaii | | | | | | DSN | | DSN | | | | | | | | X |

Key:
D - Delinquent
S - Status Offender/PINS
N - Neglected/dependent child

NOTES:

a) Restrictions only cover ages 14-16.
b) Add "Charged with felony."
c) Add "to insure will not hurt self or others, as determined by court or intake officer."

Statistics for this table were taken from the Legislative Manual for the Second National Juvenile Justice Legislative Advocacy Conference, St. Louis, Missouri, November 11-13, 1979. Permission granted by the Natonal Juvenile Law Center, St. Louis, Nissouri.

TABLE 6G

PRE-TRIAL INCARCERATION OF JUVENILES WITH ADULTS

| STATE | PROHIBITED | | PERMITTED UNDER CERTAIN CONDITIONS | | | | | | | | | TYPE OF SEPARATION | | | | CRITERIA CUMULATIVE |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | ALL | BELOW AGE | MIN. AGE | A | B | C | D | E | F | G | H | I | J | K | L | |
| Idaho | | | | DS | | | | | | | | | DS | | | |
| Illinois | | 16 | 16 | | | | | | | | | | DSN | | | |
| Indiana | | | | | | | | | | | | | D | | | |
| Iowa | | | 14 | D | D | | Note d | D | | | | | | | | X |
| Kansas | | | | | | D | | | | | | D | | | | |
| Kentucky | | | 16 | | | DSN | | DSN | | | | DSN | | | | X |
| Louisiana | | | 15 | | | D | | D | | | | | | | | X |
| Maine | | | | DS | S | | | | | | Note e | D | | | | |
| Maryland | DSN | | | | | | | | | | | | | | | |
| Massachusetts | | | | | | | | | | DS | | DS | | | | |
| Michigan | | | 15 | | | DSN | | DSN | | | | DSN | | | | X |
| Minnesota | SN | | 14 | | D | | | | | D<br>Note f | | | | D | | X |
| Mississippi | DSN | | | | | | | | | | | | | | | |
| Missouri | | | | | | | DSN | | | | | DSN | | | | |

Key: D - Delinquent
S - Status Offender/PINS
N - Neglected/dependent child

NOTES:

d) "Child constitutes immediate and serious danger to self or to another or to property of another."

e) Add "Juvenile is beyond control of staff." Least restrictive alternative that will adequately serve the purpose of detention must be used.

f) Facility can only be approved for either 48 hours or 8 days detention of minor.

# TABLE 6G

## PRE-TRIAL INCARCERATION OF JUVENILES WITH ADULTS

| STATE | PROHIBITED | | PERMITTED UNDER CERTAIN CONDITIONS | | | | | | | | | TYPE OF SEPARATION | | | | CRITERIA CUMULATIVE |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | ALL | BELOW AGE | MIN. AGE | A | B | C | D | E | F | G | H | I | J | K | L | |
| Montana | N | | | | DS | DS | DS | | | | DS | | | | Note g | X |
| Nebraska | | | | | | | | | | | DSN | | | | | |
| Nevada | | | | | DSN | | | | | | DSN | | | | | |
| New Hampshire | | | | | | DSN | | DSN | | | Note h | DSN | | | | X |
| New Jersey | | | | | DSN | | | DSN | | | DSN | DSN | | | | X |
| New Mexico | SN | | | D | | | | | | D | | D | | | | X |
| New York | | 10 | 10 | | DSN | | | | | DSN | | | | | | X |
| North Carolina | | | | | DS | DS | Note i | | | DSN | DS | | DSN | | | |
| North Dakota | N | | | | DS | DS | DS | | | | | | | | | X |
| Ohio | DSN | | 15 | | DS | DSN | DS | | | | | DS | | | | X |
| Oklahoma | | | 12 | | | | Note j | | | | | DSN | | | | X |
| Oklahoma | | | 15 | | DSN | | | | | | Note k | DSN | | | | X |
| Oregon | | | 14 | | DSN | | | | | | | | DSN | | | |
| Oregon | | | 16 | | | DSN | | DSN | | | Note l | | DSN | | | |
| Pennsylvania | DSN | | | | | | | | | | | | | | | |

Key: D - Delinquent
S - Status Offender/PINS
N - Neglected/dependent child

NOTES:

g) Must be physically and visually separated and removed.
h) Add "Is a harm or danger to himself."
i) With consent of judge or juvenile supervisor.
j) With approval of judge or director.
k) For a period of time not to exceed 72 hours.
l) Add "for own safety."

TABLE 6G

## PRE-TRIAL INCARCERATION OF JUVENILES WITH ADULTS

| STATE | PROHIBITED | | PERMITTED UNDER CERTAIN CONDITIONS | | | | | | | | | TYPE OF SEPARATION | | | | CRITERIA CUMULATIVE |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | ALL | BELOW AGE | MIN. AGE | A | B | C | D | E | F | G | H | I | J | K | L | |
| Puerto Rico | | | 16 | | | DSN | | DSN | | | | DSN | | | | X |
| Rhode Island | DS | | | | | | | | | | | | | | | |
| South Carolina | | | | | | | | | | | | DSN | | | | |
| South Dakota | | 15 | 15 | | | | | | | | Note m | | | | | |
| Tennessee | N | | | | DS | DS | DS | | | | | DS | | | | X |
| Texas | | | | | | | | | | | | | | | | |
| Utah | | 16 | 17 | | | DSN | | DSN | | | | | | | | X |
| Vermont | SN | | | | | | D | | | | Note n | | | | | X |
| Virgin Islands | | | | | | | | | | | | | | | | |
| Virginia | | | 15 | D | | | | | | D | | D | | | | X |
| Washington | | 16 | | | | | | | | | | | | | | |
| West Virginia | SN | | 14 | | | D | | | D | | Note p | | | | D | X |
| Wisconsin | | | | DSN | DSN | DSN | | DSN | | DSN | | | | | | |
| Wyoming | | | | DS | DSN | | | | | | | DS | | | | X |

Key: D - Delinquent
S - Status Offender/PINS
N - Neglected/dependent child

NOTES:

m) Unless court decides against confinement in jail; child over 15 may be incarcerated with adults with no restrictions.
n) Child is alleged to have committed an act punishable by death or life imprisonment.
o) Charged with violent felony.

## EXPLANATION OF SYMBOLS

## TABLE 6H

## STATUTORY RIGHTS OF JUVENILES WITHIN THE JUVENILE JUSTICE SYSTEM

A. Right to Counsel at Police Interrogations.
B. Right to Miranda-Type Warning at Police Interrogations.
C. Right to Counsel at Every State of Juvenile Court Proceedings.
D. Right to Counsel, Court Appointed and Paid For, at Every Stage of the Juvenile Court Proceedings.
E. Right to Appeal Juvenile Court Decisions.
F. Right to Counsel on Appeal from Juvenile Court Decisions.
G. Right to Counsel, Court Appointed and Paid For, on Appeal from Juvenile Court Decisions.
H. Right to Written Notice of Charges.
I. Right to Detention Hearing.
J. Right to Adjudicatory Hearing.
K. Right to Dispositional Hearing.
L. Right to Hearing on Revocation of Probation or Aftercare Supervision.
M. Right to Subpoena.
N. Right to Confront and Cross-Examine Witnesses.
O. Right Against the Admissibility of Statements Made While Not Advised by Counsel.
P. Right Against Self-Incrimination.
Q. Right Against Double Jeopardy.
R. Right to Bail.
S. Right Against Introduction of Illegally Seized Evidence.
T. Right to Have Adjudicatory Hearing Recorded.
U. Right to Have Transcript of Adjudicatory Hearing.
V. Right to Jury Trial.
W. Other

## TABLE 6H

## STATUTORY RIGHTS OF JUVENILES WITHIN THE JUVENILE JUSTICE SYSTEM

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Alabama | | | X | X | X | X̲ | X̲ | X | X | X | X | X | | X | X | X | X | | X | | | | |
| Alaska | | | X | X | X | | | X | X | X | | | X̲ | | | X̲ | | | | X̲ | | X | |
| Arizona | | | X | X | X | X | X | X̲ | X̲ | X | X̲ | X̲ | X̲ | | | | | | | X | | | |
| Arkansas | | | X | $N_a$ | X | | | X | I | X | | | | | | | X | X | | | | | |
| California | X | X | | X | X | X | X | X | X | X | X | X | X | X | | X | | | | X | X | | |
| Colorado | X | X | X | X | X | | | X | X | X | X | X | X | I | X | X | X | X | | | | X | |
| Connecticut | | | X | X | X | I | X | X | I | I | | | X | X | X | X | | $N_b$ | | | | | |
| Delaware | | | X̲ | X̲ | | | | X̲ | X̲ | X | X̲ | | X̲ | X̲ | | X̲ | | X | | X̲ | | | |
| District of Columbia | | | X | X | | | X | X | X | | X | X | | | | | | | | X | X | | |
| Florida | | | X | X | | X | | X | X | X | X | X | X | X | | X | | | X | | | | |
| Georgia | I | I | X | X | X | | | X | X | X | X | X | X | X | X | X | | X | X | X | | | |
| Guam | | | X | | X | | | X | | X | | | | | | | | | | | | | |
| Hawaii | | | X | | X | | | X | X | X | X | X | X | | | | | | X | X | | | |
| Idaho | | | X | X | X | | | X | X | X | | | X | | | | | | | | | | |
| Illinois | | | X | X | X | | | X | X | X | X | X | | X | I | X | | | I | | | | |
| Indiana | | | X | X | X | | | X | X | X | X | X | X | X | I | X | | | I | | | | $N_c$ |
| Iowa | X | | X | X | X | | | X | X | X | X | X | X | X | I | I | | | I | X | | | |
| Kansas | X | | X | X | X | | | X | X | X | | X | I | X | | | | | | | | $N_d$ | |

Key: X - Right covered by statute in the jurisdiction. See Appendix for citations.
X̲ - Right covered by Rule of court in the jurisdiction (where not duplicated by statute). See Appendix for citations.
I - Right implied from statute which is worded generally.
N - See notes for comment.

NOTES:

a) Court may appoint counsel, but not at county expense.
b) Bail is at judge's discretion.
c) Add "right to stop answering questions at any time."
d) Jury trial *if* felony charge, at judge's discretion.

## TABLE 6H

## STATUTORY RIGHTS OF JUVENILES WITHIN THE JUVENILE JUSTICE SYSTEM

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Kentucky | | | X | X | X | | | X | X | X | X | X | | | X | X | | | X | | | | |
| Louisiana | | | X | X | X | | | X | X | X | X | X | | X | | X | | | X | X | X | | |
| Maine | | | X | X | | X | X | X | X | X | X | X | X | X | | X | | | X | X | | | |
| Maryland | | | X | X | X | | | X | X | X | X | X | X | I | | X | | X | I | X | | | |
| Massachusetts | | | N[e] | | X | | | X | X | X | | X | | | | | | X | | | | X | |
| Michigan | | | X | | X | | | X | | X | | | | | | | | X | | X | | X | |
| Minnesota | X | X | X | X | X | | | X | X | X | X | | X | X | | X | | | X | X | X | | |
| Mississippi | | | X | X | X | | | X | X | X | X | X | X | X | | X | | | I | X | | | |
| Missouri | | | X | X | X | | | X | X | X | X | X | X | X | | | | | | X | | | |
| Montana | N[f] | N[f] | X | X | X | X | X | X | | X | X | X | | X | | X | | | X | X | | X | |
| Nebraska | | | X | X | X | | | X | X | X | X | X | X | X | | X | | | X | | | | |
| Nevada | | | X | X | | | | X | X | X | | | X | X | | | X | | | | | | |
| New Hampshire | | | X | X | X | | | X | X | X | X | | | X | | | | | | | | | |
| New Jersey | | | X | N[g] | X | | | | X | | | | | | | | | | | | | | |
| New Mexico | | | X | X | X | | | X | X | X | X | X | X | X | X | X | X | | X | X | X | X | |
| New York | | | X | X | X | X | X | X | X | X | X | X | | | | X | | | | | | | |
| North Carolina | X | X | X | X | X | | | X | X | X | X | X | | X | | X | | | X | X | | | |
| North Dakota | | | X | X | X | | | X | X | X | X | X | X | X | | X | | | X | X | X | | |

NOTES:

e: Counsel if involves continued confinement of dangerous persons.

f: Rights are implied from 10-1217 which makes Title 95 (Criminal Procedure) applicable in juvenile proceedings, including police investigation.

g: At county expense if proceeding may result in institutional commitment or if constitutionally required.

## TABLE 6H

## STATUTORY RIGHTS OF JUVENILES WITHIN THE JUVENILE JUSTICE SYSTEM

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Ohio | | | X | X | X | | | X | X | X | X | X | | | | X | | | X | X | | | |
| Oklahoma | X | X | X | X | X | | | X | X | X | X | | | X | | X | | | X | X | | X | |
| Oregon | | | X | X | X | X | X | X | X | X | | X | X | | | | | | | | | | |
| Pennsylvania | | | X | X | X | | | X | X | X | X | X | X | X | | X | | | X | X | | | |
| Puerto Rico | | | X | X | X | | | X | | X | | X | | | | | | | | | | | |
| Rhode Island | | | X | X | X | | | X | | X | | X | | | | | | | | | | | |
| South Carolina | | | $N_h$ | $N_h$ | X | | | $N_h$ | | X | | | I | $N_h$ | | $N_h$ | | | $N_h$ | | | | |
| South Dakota | | | X | X | X | X | X | X | X | X | X | X | X | X | | | | X | | X | | | |
| Tennessee | | | X | X | X | X | X | X | X | X | X | X | X | X | | X | | X | X | X | | | |
| Texas | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | X | | X | X | X | | X | |
| Utah | | | X | X | X | | | X | X | X | | X | X | | | | | | | X | | | |
| Vermont | | | X | X | | | | X | X | X | X | X | X | | | X | | X | X | X | | | |
| Virgin Islands | | | X | | | | | X | | X | | | X | $N_i$ | | | | | | | | | |
| Virginia | | | X | X | X | I | I | X | X | X | | X | X | | | | | | | | | | |
| Washington | | | X | X | X | | | X | X | X | X | X | X | X | | X | | X | X | X | F | | |
| West Virginia | | | X | X | X | | | X | X | X | X | X | | X | X | X | | X | X | X | X | X | |
| Wisconsin | | | X | X | X | | | X | X | X | X | X | X | X | | X | I | | X | X | X | X | |
| Wyoming | | | X | X | X | X | X | X | X | X | X | X | X | X | | X | | | X | X | X | X | |

NOTES:

h: Statutes state rules where institutional confinement is "possible"; 14-21-60 indicates institutional confinement is always possible although a finding may not be likely.

i: Only when charged with causing a death.

## EXPLANATION OF SYMBOLS

### TABLE 6I

### DISPOSITIONAL ALTERNATIVES - DELINQUENTS

A. Take no further action.
B. Fine and/or restitution.
C. Probation - indefinite term.
D. Probation - definite term.
E. Suspend or revoke driver's license.
F. Foster home care.
G. Commitment to county public institution.
H. Commitment to forestry or other camp.
I. Commitment to state training school.
J. Commitment to other state youth services.
K. Commitment to penal institution.
L. Commitment for medical, psychiatric or psychological treatment - in-patient or out-patient.
M. Commitment to jail.
N. Require the child to perform labor or public service.
O. Commit to Department of Institutions.
P. Place in custody of a private person or relative.
Q. Commit to state department of social services, youth welfare, etc.
R. Commit to private institution or agency.

## TABLE 6I

## DISPOSITIONAL ALTERNATIVES - DELINQUENTS

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | OTHER | JAIL PROHIBITED |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Alabama | | X | X | | | | X | | | | | X | N[a] | | | X | X | X | | |
| Alaska | X | X | X | | | | | | | | | | | | | X | X | | | |
| Arizona | | X | X | | | | | | | | X | | | X | | X | | X | | X |
| Arkansas | | X | | | | | | | | | | X | | X | | | X | | | |
| California | | X | | X | | X | X | X | | X | | | | X | | X | | X | | |
| Colorado | | X | X | | | | X | | X | X | X | X | | X | X | X | | X | | |
| Connecticut | | X | X | | | | X | | | | | | | X | | X | X | X | | X |
| Delaware | X | X | X | | X | X | X | | | X | | X | | | | X | X | X | | |
| District of Columbia | X | | X | | | | X | | X | | | X | | | | X | X | X | | |
| Florida | | X | X | | | | | | | X | | | | X | | | | | | |
| Georgia | | | X | | | | X | | X | X | | | | | | X | X | X | | |
| Guam | X | | X | | | X | X | | | | | X | | | | | | X | | |
| Hawaii | X | X | X | | | | X | | X | | | | | X | | X | X | X | | |
| Idaho | | X | X | | | X | | | | | | X | N[b] | | | X | X | X | | |
| Illinois | X | | | X | | X | X | | X | | X | | | | | X | X | X | | |
| Indiana | | X | X | | | X | | | | | X | X | X | | | X | X | X | | |
| Iowa | | X | X | | | X | | | X | X | | X | | X | | X | | X | | |
| Kansas | | X | X | | | | | | | | | | | | | X | | X | | |

NOTES:

a) Delinquent may be held in jail if: (1) there is no other available detention; and (2) he is kept separated from adults.

b) Must be less than 30 days for each offense.

TABLE 6I

DISPOSITIONAL ALTERNATIVES - DELINQUENTS

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | OTHER | JAIL PROHIBITED |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Kentucky |  | X | X |  |  | X | X |  |  |  |  | X |  | X |  | X | X | X |  |  |
| Louisiana |  | X | X |  |  |  | X |  |  |  | X | X |  |  |  | X | X | X |  |  |
| Maine | X | X | X |  |  | X |  |  |  |  |  |  | Nc | X |  |  | X |  |  |  |
| Maryland |  | X | X |  |  |  | X |  |  | X |  | X |  |  |  | X | X | X | Note d | X |
| Massachusetts |  | X | X |  |  |  |  |  |  | X |  |  |  |  |  |  | X |  |  |  |
| Michigan |  |  | X |  |  | X | X |  |  |  |  |  | X |  |  |  |  | X |  |  |
| Minnesota |  | X | X |  |  | X | Ne |  | Ne |  | X | X |  |  | Ne | X |  | X |  |  |
| Mississippi | X | X | X |  | X |  | X |  | X |  |  | X |  |  |  |  | X | X |  | X |
| Missouri |  |  | X |  |  | X | X |  |  |  |  | X |  |  |  | X | X | X |  |  |
| Montana |  |  | X |  |  | X |  | X |  |  |  |  |  |  | X |  |  |  |  |  |
| Nebraska |  |  | X |  |  | X |  |  |  |  |  | X |  | X |  |  |  |  |  |  |
| Nevada | X |  |  |  |  | X | X |  |  | X |  | X |  | X |  | X |  | X |  |  |
| New Hampshire |  | X |  | X |  | X |  |  |  | X |  | X |  |  |  | X |  |  |  |  |
| New Jersey | X |  |  | X |  |  |  |  |  | X |  | X |  |  | X | X | X |  |  |  |
| New Mexico |  | X | X |  |  |  |  |  | X | X |  | X |  |  |  | X |  | X |  |  |
| New York | X | X | X |  |  |  |  |  |  |  |  | X |  | X |  | X | X |  |  |  |
| North Carolina | X | X | X |  |  |  |  |  |  |  |  | X | X | X |  | X | X |  | Note f |  |
| North Dakota |  |  | X |  |  |  | X | X | X | X |  |  |  |  |  | X | X | X |  |  |

NOTES:

c) County jail is designated for detention of youths except those before the court for marijuana or liquor offenses.
d) Court costs imposed on delinquents.
e) Truants and runaways cannot be committed to county school or Department of Corrections.
f) Can't be committed directly to hospital.

## TABLE 6I

## DISPOSITIONAL ALTERNATIVES - DELINQUENTS

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | OTHER | JAIL PROHIBITED |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Ohio |  | X | X |  |  | X | X | X | X | X |  |  |  |  |  |  | X |  |  | X |
| Oklahoma | X |  | X |  |  | X | X |  |  |  |  | X | X |  |  | X | X | X |  |  |
| Oregon |  | X | X |  |  | X |  |  | X |  |  | X |  |  |  | X | X | X |  |  |
| Pennsylvania |  | X | X |  |  |  | X |  |  |  |  |  |  |  |  | X | X | X |  | X |
| Puerto Rico |  |  | X |  |  | X | X |  |  |  |  | Ng |  |  |  |  | X | X |  |  |
| Rhode Island |  | X | X |  |  | X | X |  |  |  |  |  |  |  |  | X | X | X |  | X |
| South Carolina | X |  | X |  |  |  | X |  |  |  |  | X |  |  |  | X |  | X |  |  |
| South Dakota |  | X | X |  |  |  | X | X | X |  |  | X |  |  |  | X | X | X |  |  |
| Tennessee |  | X | X |  |  |  | X | X |  |  |  |  |  |  |  | X | X | X |  |  |
| Texas | X |  |  | X |  | X | X |  |  |  |  |  |  |  |  | X |  | X |  |  |
| Utah |  | X | X |  |  | X | X |  | X |  |  | X |  | X |  | X | X | X |  |  |
| Vermont |  |  | X |  |  |  |  |  | X |  | Nh |  |  |  |  |  |  |  |  |  |
| Virgin Islands | X | X | X |  |  | X | X |  |  |  |  | X |  |  |  | X |  | X |  |  |
| Virginia |  | X | X |  | X |  |  |  |  |  |  | X |  |  |  | X | X | X |  |  |
| Washington |  | X |  |  |  |  |  |  |  |  |  | X |  | X |  |  | X |  |  |  |
| West Virginia | X |  | X |  |  | X | X |  |  | X |  |  |  |  |  |  | X | X |  |  |
| Wisconsin |  | X |  |  |  | X |  |  | X |  |  | X |  | X |  | X | X | X |  |  |
| Wyoming |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

NOTES:

g) To psychiatrist for diagnosis only.
h) Commit to Departmentzcf Corrections for placement.

## EXPLANATION OF SYMBOLS

## TABLE 6J

## DISPOSITIONAL ALTERNATIVES - STATUS OFFENDERS

A. No further action.
B. Fine and/or restitution.
C. Probation - definite term.
D. Probation - indefinite term.
E. Probation - periodically reviewed.
F. Foster home care.
G. Commitment to public institutions.
H. Commitment to forestry and other camps.
I. Commitment to state training school.
J. Commitment to other state youth services.
K. Commitment for medical, psychiatric or psychological services - in- or out-patient.
L. Commitment to the custody of the probation officer.
M. May require the child to perform labor or public service.
N. Commitment to jaim.
O. Custody vested in a relative or a private individual.
P. Commitment to State Department of Public Welfare, Social Services, Children and Youth, etc.
Q. Commitment to private institutions or agency.

## TABLE 6J

## DISPOSITIONAL ALTERNATIVES - STATUS OFFENDERS

| STATE | STATUS OFFENDERS HANDLED AS DELINQUENTS OR DEP/NEGLECTED* | DISPOSITIONAL ALTERNATIVES |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | MAY NOT BE COMMITTED TO INSTITUTION WITH DELINQUENTS | MAY NOT BE PLACED IN SECURE DETENTION FACILITY ** | OTHER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  | A | B | C | D | E | F | G | H | I | J | K | L | M | N** | O | P | Q |  |  |  |
| Alabama |  |  | X | X |  |  |  | X |  | X | X | X |  |  |  | X | X | X | X |  |  |
| Alaska | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Arizona |  |  |  | X |  |  |  | X |  |  |  |  | X |  |  | X |  | X |  |  |  |
| Arkansas |  |  | X |  |  |  |  |  |  |  |  | X |  |  |  |  |  |  | X | X |  |
| California |  |  |  |  | X |  | X | X |  |  | X | X | X |  |  | X |  | X |  |  |  |
| Colorado |  |  | X | X |  |  |  | X |  | X |  | X |  | X |  | X | X |  |  |  |  |
| Connecticut | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Delaware | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| District of Columbia |  | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Florida | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Georgia |  |  |  | X |  |  |  | X |  | X | X |  |  |  |  | X | X | X |  |  |  |
| Guam |  | X |  | X |  |  | X | X |  |  | X | X |  |  |  | X |  | X |  |  |  |
| Hawaii |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | X | X |  |
| Idaho |  |  | X | X | X |  |  |  |  |  |  | X |  |  | X | X | X | X |  |  |  |
| Illinois |  | X |  |  |  |  |  | X |  | X |  |  | X |  |  | X |  | X |  |  |  |
| Indiana |  | X |  | X |  |  | X |  |  |  |  | X | X |  |  | X | X |  |  |  |  |
| Iowa | X |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Kansas |  |  |  | X |  |  |  |  |  |  |  | X |  |  |  | X | X | X |  |  |  |

* See Statutory Analysis - Status Offenders, PINS Table 6D, , for breakdown of how jurisdictions with no status offender category handle status offender. See Tables 6I for dispositional alternatives for delinquents and Table 6K for dispositional alternatives for dependent/neglected.

** Placement in jail. See Table 6G for detail on restrictions on placing children in adult jails.

TABLE 6J

DISPOSITIONAL ALTERNATIVES - STATUS OFFENDERS

| STATE | STATUS OFFENDERS HANDLED AS DELINQUENTS OR DEP/NEGLECTED | DISPOSITIONAL ALTERNATIVES | | | | | | | | | | | | | | | | | MAY NOT BE COM MITTED TO IN- STITUTION WITH DELINQUENTS | MAY NOT BE PLACED IN SECURE DETEN- TION FACILITY | OTHER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | | | |
| Kentucky | | | | X | | | X | X | | | | X | | | | X | X | X | | | |
| Louisiana | | | | X | | | | X | | | | X | | | | X | | X | | | |
| Maine | X | | | | | | | | | | | | | | | | | | | | |
| Maryland | | | | X | | | | X | | | | X | | | | X | X | X | | | |
| Massachusetts | | | | | | | X | | | | | X | | | | X | X | | X | | |
| Michigan | | X | | X | | | X | X | | | X | | X | | | | | X | | | |
| Minnesota | X | | | | | | | | | | | | | | | | | | | | |
| Mississippi | | X | X | | | | | X | | | | X | X | | | | X | X | X | | |
| Missouri | | | | X | | | X | X | | X | | X | X | | | | X | X | X | | |
| Montana | | | | X | | | X | | | | | X | | | | | | X | X | | |
| Nebraska | | | X | X | | | X | | | | | X | | | | X | X | | | | Na |
| Nevada | | X | | | | | X | X | | | | X | | X | | X | | X | | | |
| New Hampshire | | | | X | | | X | | | | | X | | | | X | | X | | | |
| New Jersey | | X | | | X | | | X | | | | X | | | | X | X | | X | X | |
| New Mexico | | | X | X | | | | X | | | | X | | | | X | X | | X | | |
| New York | | X | X | X | | | | | | | | X | | X | | X | X | | | | |
| North Carolina | | X | X | | X | X | | | | | | X | | | | X | X | X | | | |
| North Dakota | | | | X | | | | X | | | | | | | | X | X | X | | | |

Note a) Add "commit to State Department of Corrections."

## TABLE 6J

## DISPOSITIONAL ALTERNATIVES - STATUS OFFENDERS

| STATE | STATUS OFFENDERS HANDLED AS DELINQUENTS OR DEP/NEGLECTED | DISPOSITIONAL ALTERNATIVES | | | | | | | | | | | | | | | | | MAY NOT BE COMMITTED TO INSTITUTION WITH DELINQUENTS | MAY NOT BE PLACED IN SECURE DETENTION FACILITY | OTHER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | | | |
| Ohio | | | X | X | | | X | | | X | | X | | | | | X | X | | | Nb |
| Oklahoma | | X | | X | | | X | X | | | | X | | | | X | X | X | | | Nc |
| Oregon | | | X | X | | | X | | | | | X | | | | X | X | X | X | X | |
| Pennsylvania | | | | | | | | X | | | X | | | | | X | | X | | | |
| Puerto Rico | | | | | | | | | | | | | | | | | | | | | |
| Rhode Island | | | X | | X | | | X | | | | | | | | X | X | X | | | |
| South Carolina | | X | | X | | | | X | | | | X | | | | X | | X | | | |
| South Dakota | | | X | X | | | | X | X | | | X | X | X | | X | X | X | X | | |
| Tennessee | | | X | X | | | | | | | | | | | | X | X | X | | | Nd |
| Texas | | | | X | | | X | X | | | X | | | | | X | | X | | | |
| Utah | | | X | X | | | X | X | | X | | X | | X | | X | X | X | | | |
| Vermont | X | | | | | | | | | | | | | | | | | | | | |
| Virgin Islands | | X | X | X | | | X | X | | | | X | | | | X | | X | | | |
| Virginia | | | | X | | | | X | | | | X | | | | X | X | X | | | |
| Washington | | | | | | | | | | | | | | | | | X | | | | |
| West Virginia | | X | | | | | X | X | | | | | | | | | X | X | | | |
| Wisconsin | | X | | | | | X | X | | | | X | | X | | X | X | X | X | | |
| Wyoming | | | X | X | | | | | | X | | X | | X | X | X | | X | | | Ne |

NOTES:

b) Statute allows institutionalization of unruly child after three proceedings.

c) Institutionalization with adults permitted if child is unmanageable in less restricted setting. No institutionalization with adults for truancy.

d) Statute allows institutionalization after three proceedings.

e) May be segregated from others for up to 10 days.

## EXPLANATION OF SYMBOLS

## TABLE 6K

## DISPOSITIONAL ALTERNATIVES - DEPENDENT/NEGLECTED CHILDREN

A. No further action.
B. Emancipation.
C. Protective supervision.
D. Order medical or psychiatric services.
E. Custody to private person, relative.
F. Custody to child placing agency.
G. Custody to county or State welfare, youth department.
H. Placement in diagnostic facility or hospital.
I. Placement in county facility, public agency.
J. Custody to private agency.
K. Foster care.
L. Termination of parental rights.
M. Special dispositions as court deems necessary.
N. Shelter, institution for dependent children.
O. Remain at home with court-imposed conditions.

## TABLE 6K

## DISPOSITIONAL ALTERNATIVES - DEPENDENT/NEGLECTED CHILDREN

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Alabama | | | X | X | X | X | X | X | X | X | | X | X | | X |
| Alaska | X | | X | X | X | | X | | | | | X | | | X |
| Arizona | | | X | | X | X | X | | X | X | | | | | X |
| Arkansas | | | | X | | | | X | | | | | X | | |
| California | | | | X | X | | | X | X | X | | | X | X | X |
| Colorado | | | X | X | X | X | X | X | | | X | X | | | X |
| Connecticut | | | | | X | X | X | | | | | | | X | |
| Delaware | | | X | | X | X | X | X | X | X | X | | X | | X |
| District of Columbia | X | | X | X | X | | | X | X | X | | X | X | X | X |
| Florida | | | X | | X | X | | | | | | X | | | |
| Georgia | | | X | | X | | | | X | X | | | | | X |
| Guam | X | | X | X | X | | | X | X | X | X | X | | | X |
| Hawaii | X | | X | | | X | | | X | X | X | | | | |
| Idaho | | | X | | | | X | | | | | | | | |
| Illinois | X | | X | | X | | | | X | X | | | | | X |
| Indiana | X | | X | X | X | X | X | | X | X | | | | | |
| Iowa | | | | X | X | X | X | | | X | | | | | X |
| Kansas | | | | X | X | X | X | X | | X | | X | | | X |
| Kentucky | | | | X | X | | | X | X | X | X | | | | X |
| Louisiana | | | | | X | | | X | X | X | | | X | | X |
| Maine | | Na | X | | X | | | | | | | X | | | |
| Maryland | | | | X | X | | X | | | X | | | | | X |
| Massachusetts | | | X | X | X | X | X | | | X | X | | X | | X |
| Michigan | X | | | X | | X | | | X | X | X | X | | | X |
| Minnesota | X | | X | X | | X | X | | | | | | | | X |
| Mississippi | X | | | | X | | X | | X | X | | | | | X |
| Missouri | | | | | X | X | X | X | X | X | X | | | | X |

Note a) Emancipation is a possible disposition for runaways.

## TABLE 6K

## DISPOSITIONAL ALTERNATIVES - DEPENDENT/NEGLECTED CHILDREN

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Montana | | | | | X | | X | X | | | | | X | | X |
| Nebraska | | | | X | X | X | X | | | | X | | | | X |
| Nevada | | | X | X | X | X | | | X | X | X | | | | X |
| New Hampshire | | | X | X | X | X | | | | | | | | | Nb |
| New Jersey | | | | | | | | | | | | | | | |
| New Mexico | | | X | | X | X | | | | | | | | X | X |
| New York | X | | X | X | X | X | X | | | | | | | | X |
| North Carolina | X | | X | X | X | | X | | | | | | | | X |
| North Dakota | | | X | | X | | X | | | X | | | | | |
| Ohio | | | X | | | X | X | X | | X | X | | | | X |
| Oklahoma | X | | | X | X | X | X | X | X | X | X | X | | | X |
| Oregon | | | X | X | X | | X | | | X | X | X | | | X |
| Pennsylvania | | | | X | | X | X | | X | X | X | | | | X |
| Puerto Rico | | | | X | | | | | X | | X | | | | X |
| Rhode Island | | | | X | | | X | X | X | X | X | X | | | X |
| South Carolina | X | | | X | X | | | X | X | X | | | | | |
| South Dakota | | | X | X | X | X | X | X | | | X | X | | | X |
| Tennessee | | | X | | X | X | X | | | | | | | | X |
| Texas | | | | | | | | | | | | X | | | |
| Utah | | X | | X | X | | X | X | X | X | X | X | | | X |
| Vermont | | | X | | X | X | X | X | X | X | X | | | | X |
| Virgin Islands | | | X | X | X | | | | X | X | X | | | | X |
| Virginia | | | | X | X | | X | | X | X | | X | | | X |
| Washington | | | | | X | X | X | | | | X | X | | | X |
| West Virginia | X | | X | | | | X | | X | X | X | | | | X |
| Wisconsin | | | | X | X | X | X | | X | X | X | | | | |
| Wyoming | | | X | X | X | X | | | | X | | | | | X |

Note b) Court may order that homemaker or day care services be provided to the family.

# TREND SUMMARY

## Chapter 7: Compulsory Education

There has been little in the way of substantial change in the area of compulsory education in recent years. Five states adjusted their ages for required attendance up or down by one year. Other than that, there has been no significant statutory movement in compulsory education age requirements.

However, there have been some noticeable trends in the area of exemptions from compulsory education. Perhaps the most significant of all of these is the one dealing with the right to private education. That is to say, out of 54 jurisdictions, only 7 do not appear to have any statutes governing the provision of private schooling. In part this statutory trend may be accounted for as a response to the social movement toward the racial integration of public schools that stimulated the development of private educational alternatives and a demand for legislative sanction of same during the late 60's and early 70's.

Another significant development has been the number of states which have increased the exemption from compulsory education for physically handicapped children and for children living at such distances from school facilities as to make transportation prohibitive or impossible. There appears to be no obvious explanation for these changes except for the growing recognition that schools that cannot afford to provide for special classes of children have been allowed more exemptions from compulsory school requirements by their legislatures. This development runs counter to the substance of recently enacted federal law, principally PL 94-142, that mandates the equivalent of a public education for handicapped children consistent with their abilities.

This issue coupled with the increasing claims by some parents to the right to tutor their children in their own homes and the continuing issues surrounding racial exclusion in private school facilities are likely to make the matter of compulsory education somewhat more controversial in the years immediately ahead.

# CHAPTER 7

## COMPULSORY EDUCATION

In every jurisdiction children have both the right and the obligation to attend free public school. The state's interest in educating children is so strong that neither parents nor children are free to decide that a child need not attend school. Parents do retain some decisionmaking role because they may arrange alternative schooling for their children within narrow limits prescribed by the state. Older children may choose to work, or to combine work and school or to enter vocational training; they must, however, have the permission of the state and of their parents to participate in these alternatives to a regular school program. (See Column I, Table 7B for work exemptions.)

There have been few challenges to the state's interest in requiring that children attend school. Though requiring education might deprive the child of freedom to choose, education is necessary for later autonomy. Recent challenges have been to the school's power to regulate student conduct. School officials are limited to reasonable means of regulation for educational purposes. In this chapter the parameters of required education are discussed first; then the authority of school officials to make and enforce rules of behavior is discussed briefly.

### 1. Compulsory Education

Age: Twenty-six jurisdictions require children to attend school from age 7 to 16. Ten jurisdictions require attendance from 6 to 16. Three (Guam, Virgin Islands, Virginia) require attendance from age five; four (Arizona, Pennsylvania, Rhode Island and Washington) don't require attendance until age 8. Mississippi, the last state to require school attendance, only requires attendance to age 13; Puerto Rico has a maximum age of 14. Five states require attendance to age 17 and five to age 18.

Residence: The majority of jurisdictions require that those attending its public schools be residents of the state. The residence of an unemancipated minor is that of his custodial parent or guardian. "Residence" can, however, mean different things in different jurisdictions. In Minnesota, for example, the State Supreme Court decided that education was to be provided for all who found themselves within the state. The Court held that "resident" for purposes of the state's compulsory education law meant "inhabitant." On the other hand, in Arizona an Attorney General's opinion stated that "residence" required: (1) actual presence in the State of Arizona, (2) actual intent to remain in Arizona and to make Arizona the parents' home, and (3) intent to abandon former home.

If the child meets the state's requirement for residence the state must provide him with an education and the child must attend. He must usually attend school in the district in which he resides. Some common exceptions to this requirement include parents paying tuition for a child to attend school in another district, a district paying a child's tuition in another district if the district of residence does not have an appropriate school for the child, or a child being able to establish residence apart from his parents (if his presence in the new school district is not solely to attend school free in that district). Special provisions about state and local residence are noted in Table 7A.

Exemptions, Excuses and Exclusions: Children who meet age and residence requirements must attend school unless they are exempted, excused or excluded from attendance. Statutes in each jurisdiction set out the requirements for these exceptions. School boards or designated school district officials review and approve requests for exceptions. In some jurisdictions courts or school boards are allowed to grant attendance exceptions in situations beyond those enumerated in the statute; the statute will contain a provision allowing, for example, other exemptions that the board feels are appropriate.

Exemptions are set out in Table 7B and the accompanying explanation. They are usually complete and long-term. Exemptions are granted because of the child's or parent's needs. The most common are: child receiving comparable education at private school; child, though below maximum age, has attended a specific number of grades, or child is mentally or physically unable to attend school.

Excuses allow temporary absence. Typical and acceptable reasons for excuses are: personal illness or injury, appointments with health professionals that cannot be made outside of the regular school day, observance of religious holidays, attendance at religious classes, and planned absences for the approved personal or educational purposes (e.g., legislative page).

Actions to exclude children are initiated by school personnel; exclusions serve the interests of the school or of the children other than the excluded child. Common reasons for exclusion include: failure to be immunized; habitual truancy; filth or disease; violent or malicious behavior which endangers the safety of others. Exclusions may be temporary (suspensions), or long-term (expulsions). Exclusions are infrequently permanent because they are such a serious deprivation and because schools are to endeavor to educate all children.

There are some reasons for which children may not be excluded. Handicapped children may not be excluded from public schools. Two federal statutes--Section 504 of the Rehabilitation Act of 1973 and the Education for All Handicapped Children Act of 1975--require that each qualified handicapped person regardless of the nature or severity of the handicap must be provided with free, appropriate, public education. The federal legislation includes an appropriation of funds for those jurisdictions which comply with federal requirements. 20 U.S.C.A. 1412 directs the state to establish procedures which insure that, to the maximum extent appropriate, handicapped children are educated with children in regular classrooms. Special classes, separate schooling or other removal from normal classrooms should occur only when the nature or severity of the handicap is such that education in regular classes cannot be achieved satisfactorily even with supplementary aids and services. Schools must provide classes for severely handicapped children or must locate and pay for schooling off campus.

Title IX of the Education Amendment of 1972 prohibits sex-based discrimination in any educational program or activity receiving federal assistance. Title IX has been interpreted to mean that a school may not discriminate against a student on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom. If the pregnant student requests exemption from regular programming the school shall set up a special, separate and equivalent program for her.

Schools may not exclude students just because they speak a language other than English and are unable to understand English. In fact, the U.S. Supreme Court has held[1] that school districts which fail to provide English language instruction or to conduct classes in the children's native language are unlawfully discriminating on the basis of national origin.

### 2. School Officials Power to Regulate Student Conduct

Suspension-Expulsion: The due process clause of the constitution assures students of procedural protection against suspension or expulsion. Either disciplinary act is viewed by the U.S. Supreme Court as depriving students of their right to continued public education and their good name, reputation, honor or integrity. "Due process," through the court's interpretation of the 14th Amendment in Goss v. Lopez[2] requires, at least, that a student be given oral or written notice of the charges against him or her and that the student be given the opportunity to explain his conduct and put it in what he deems the proper context. This requisite "give-and-take" must occur before the student is removed from school unless the student's presence poses a continuing danger to persons or property that necessitates immediate removal. A necessary and rudimentary hearing should then follow as soon as is practicable. Longer suspensions or expulsions for the remainder of a school year may require more formal proceedings.

Extracurricular activities have been included as a fundamental part of a school's educational program by at least one state court. Participation in them is thus protected by the due process requirement of an informal hearing.[3] It should be noted that these procedural requirements are for disciplinary actions by the school in response to violations of rules of conduct. Far less stringent procedural requirements were demanded by the court in the case of an academic dismissal from college.[4]

Corporal Punishment: While the student is said to have some procedural protection against suspension and expulsion, the courts thus far have found that the student is not protected against corporal punishment by either the 8th or the 14th Amendments. In Ingraham v. Wright[5] the Supreme Court held that the disciplinary paddling of public school students did not constitute cruel and unusual punishment in violation of the 8th Amendment since it was not a "criminal" punishment. Nor did the due process clause require prior notice and a hearing before the disciplinary paddling. It would seem that the Supreme Court deems the student's right to education is deserving of greater protection than the student's body.

---

[1] Lau v. Nicholas (1974) 414 U.S. 563.

[2] Goss v. Lopez (1975) 419 U.S. 565. Long v. Thornton Tp High School District (1979) 82 F.R.D. 186.

[3] O'Conner v. Board of Education of School District No. 1 316 N.Y. 52nd 799 (S. Ct. 1970).

[4] Board of Curators v. Horowitz (1978) 435 U.S. 78.

A few states, Massachusetts and New Jersey among them, have prohibited by statute all corporal punishment in their schools. However, where the legislatures have not acted, the court upholds the state's right to preserve what "has always been the law of the land" and stresses the historic and traditional nature of corporal punishment in the schools.

The court has recognized the child's interest in procedural safeguards where there is a deliberate infliction of corporal punishment on a child who is restrained for that purpose. However, it was felt in Ingraham that the requirement that both the teacher and the principal decide whether the punishment was reasonably necessary under the circumstances would protect the child from the risk of unjustified or wrongful punishment.

The court believes that children are further protected because if punishment inflicted is later found to be unjustified or excessive, school authorities might be held liable in damages. However, school board members are given extensive immunity from tort liability when mistakes are made "in good faith," in the course of exercising discretion within the scope of school duties.[6] Therefore, it is quite possible that recovery for bodily harm would only be granted in cases where a court found the corporal punishment to have been maliciously inflicted.

1st Amendment Rights: In Tinker v. Des Moines Community School District[7] the Supreme Court held that expression, even of an unpopular viewpoint, by a student in school is protected by the 1st Amendment. A prohibition against expression of opinion is not allowed even if the administration fears there might be some disturbance, unpleasantness or discomfort unless there is a showing that the exercise of the forbidden right would materially and substantially interfere with appropriate school work or discipline.

An example of a necessary, and therefore permissable, interference with expression is the school authorities prohibiting the wearing of all opinion symbols (buttons, armbands, etc.) without discriminating against the various conflicting views in a school which has a history of unrest and conflict.[8] State and school officials are deemed to have a substantial interest in providing for an orderly educational process and are therefore given a wide latitude of discretion in prescribing rules of conduct. In addition, a school may prohibit ordinarily protected speech both out of regard for fellow students who constitute a captive audience, and in recognition of the fact that the school has a substantial educational interest in avoiding the impression that it has authorized a specific expression.[9]

---

[5] Ingraham v. Wright (1977) 430 U.S. 651.

[6] Wood v. Strichland (1975) 420 U.S. 308.

[7] Tinker v. Des Moines Community School District (1969) 393 U.S. 503.

[8] Guzick v. Drebus (1969) 305 F. Supp. 472.

Locker Searches: The 4th Amendment explicitly provides protection against "unreasonable" searches and seizures. Generally a search without a warrant obtained through legal channels by a showing of probable cause is considered unreasonable. While the 4th Amendment does place limits on school officials, the doctrine of in loco parentis expands their authority. In balancing 4th Amendment rights of students against the in loco parentis powers of schools, courts have generally required that the search be within the scope of the school's duties and that it be reasonable under the circumstances. More than one court has found that preventing the use of marijuana is a school responsibility and therefore search of a student's locker, based on information from other students, is reasonable.[10]

Virtually all state courts have ruled that the 4th Amendment has permitted the use of evidence seized from a student's locker despite the lack of a warrant, consent by the student, or the existence of an established exception (such as exigency-emergency) that would justify a warrantless search. One factor frequently cited is the possession by the principal of all the combinations or keys to all school lockers. It is reasoned that therefore students know that they are not in exclusive possession of their locker and have no expectation of privacy.[11]

The purpose of the search may be considered in determining whether evidence seized may be used against a student in a criminal proceeding. If, for example, the search is part of a general inspection of lockers to maintain standards of cleanliness, and does not, in advance, single out a particular student, the evidence will be admissible at trial. On the other hand, when a search is undertaken, not to enforce a school rule, but for the express purpose of obtaining evidence that a student has committed a crime, the evidence may be withheld in a criminal trial as a violation of the 4th Amendment. The crucial question here is whether the educators acted on behalf of the police.[12]

Student Records: Schools cannot deny parents of students (or students themselves if they are over 18 or are in post-secondary schools) the right to see official records relating to the student. The Family Educational Right and Privacy Act of 1974[13] permits parents or children access to information contained in these school records.

---

[9] Thomas v. Board of Ed. Granville Central School District (1979) 607 F2d 1043.

[10] In re W (1973) 29 Cal. App. 3d 777.

[11] Searches of Students and the 4th Amendment 5 Journal of Law and Education, No. 1 57 (1976).

[12] The 4th Amendment and Searches of Students in Public Schools (1974) Iowa L. Rev. Vol. 59, No. 4.

---

[13] 20 USC 1232g (Supp. J., 1975).

TABLE 7A

## COMPULSORY EDUCATION REQUIREMENTS

| STATE | COMPULSORY SCHOOL AGE SPAN | PENALTY FOR INDUCING OR ABETTING TRUANCY | SPECIAL NOTES ON RESIDENCY RELATED LAWS |
|---|---|---|---|
| Alabama | 7-16 | Yes | |
| Alaska | 7-16 | Yes | |
| Arizona | 8-16 | Yes | Children of nonresidents of the state may be admitted upon payment of reasonable tuition fixed by board. Exception: children of nonresident teaching and research faculty. |
| Arkansas | 7-15 | Yes | |
| California | 6-16 | Yes | |
| Colorado | 7-16 | Yes | |
| Connecticut | 7-16 | Yes | |
| Delaware | 6-16 | Yes | |
| District of Columbia | 7-16 | Yes | |
| Florida | 7-16 | Yes | Pupil in grades kindergarten through 12 whose parent, or guardian is a nonresident of the state shall be charged a tuition fee or $50. Exception: children of federal military or civilian employees, whose education is federally subsidized, or children of migrant workers. |
| Georgia | 7-16 | Yes | Every child between the ages of 6 and 19 residing in this state who has not completed high school, may be eligible to receive a grant to defray tuition costs of attending a nonsectarian private school or a public school in any other state. |

## TABLE 7A

## COMPULSORY EDUCATION REQUIREMENTS

| STATE | COMPULSORY SCHOOL AGE SPAN | PENALTY FOR INDUCING OR ABETTING TRUANCY | SPECIAL NOTES ON RESIDENCY RELATED LAWS |
|---|---|---|---|
| Guam | 5-16 | Yes | |
| Hawaii | 6-18 | Yes | |
| Idaho | 7-16 | Yes | |
| Illinois | 7-16 | Yes | |
| Indiana | 7-16 | Yes | |
| Iowa | 7-16 | Yes | |
| Kansas | 7-16 | Yes | |
| Kentucky | 6-16 | Yes | Actually being present in the state is the test; it is unimportant that child's parents or legal guardian are residents of another state or that child's residence is seasonal. |
| Louisiana | 7-16 | Yes | |
| Maine | 7-17 | Yes | |
| Maryland | 6-16 | Yes | |
| Massachusetts | Note a | Yes | |
| Michigan | 6-16 | Yes | |

Note a) Current compulsory school age span is 7-16 years. The minimum age can, however, be raised to the national average for first grade.

## TABLE 7A

## COMPULSORY EDUCATION REQUIREMENTS

| STATE | COMPULSORY SCHOOL AGE SPAN | PENALTY FOR INDUCING OR ABETTING TRUANCY | SPECIAL NOTES ON RESIDENCE RELATED LAWS |
|---|---|---|---|
| Minnesota | 7-16 | Yes | |
| Mississippi | 7-13 | Note b | |
| Missouri | 7-16 | Yes | |
| Montana | 7-16 | Yes | Residence of an unmarried minor is that of his parent; it cannot be changed by act of the child or his guardian. |
| Nebraska | 7-16 | Yes | |
| Nevada | 7-17 | Yes | |
| New Hampshire | 6-16 | Yes | |
| New Jersey | 6-16 | Yes | |
| New Mexico | 6-16 | Yes | Children of nonresidents of state may be admitted upon payment of reasonable tuition fixed by board. |
| New York | 6-16 | Note c | |
| North Carolina | 7-16 | Yes | |

NOTES

b) The statute imposes a duty on the parent or person in control of the child, but does not impose a penalty.

c) Parent has statutory duty to cause minor to attend full time instruction. There is no penalty in the statute; the child can be found to be neglected.

## TABLE 7A

## COMPULSORY EDUCATION REQUIREMENTS

| STATE | COMPULSORY SCHOOL AGE SPAN | PENALTY FOR INDUCING OR ABETTING TRUANCY | SPECIAL NOTES ON RESIDENCY RELATED LAWS |
|---|---|---|---|
| North Dakota | 7-16 | Yes | Reciprocal agreements can be made between state superintendents for the attendance of pupils in bordering states upon payment of tuition by state of child's residence. |
| Ohio | 6-18 | Yes | |
| Oklahoma | 7-18 | Yes | |
| Oregon | 7-18 | Yes | |
| Pennsylvania | 8-17 | Yes | Migratory children of compulsory school age are required to attend school in compliance with state's compulsory schooling laws while temporarily residing in state. |
| Puerto Rico | 8-14 | Yes | |
| Rhode Island | 7-16 | Yes | |
| South Carolina | 7-16 | Yes | |
| South Dakota | 7-16 | Yes | |
| Tennessee | 7-16 | Yes | |
| Texas | 7-17 | Yes | Alien children within the state are entitled to attend public school whether their presence in the U.S. is legal or illegal. (Op. Atty. 1975) However, the state is under no duty to exempt illegal alien students from payment of tuition. |
| Utah | 6-18 | Yes | |

## TABLE 7A

## COMPULSORY EDUCATION REQUIREMENTS

| STATE | COMPULSORY SCHOOL AGE SPAN | PENALTY FOR INDUCING OR ABETTING TRUANCY | SPECIAL NOTES ON RESIDENCY RELATED LAWS |
|---|---|---|---|
| Vermont | 7-16 | Yes | |
| Virginia | 5-17 | Yes | Tuition may be charged to out-of-state residents living temporarily within the state who wish to attend school therein. |
| Virgin Islands | 5-16 | Yes | |
| Washington | 8-15 | Yes | |
| West Virginia | 7-16 | Yes | |
| Wisconsin | 6-16 | Yes | |
| Wyoming | 7-16 | Yes | |

## EXPLANATION OF SYMBOLS

### TABLE 7B

### EXEMPTIONS FROM COMPULSORY EDUCATION REQUIREMENTS

| | |
|---|---|
| A. | Physical, mental condition makes attendance inadvisable. |
| B. | Child has completed high school. |
| C. | Child has completed elementary school (grade 6 or grade 8). |
| D. | Distance to school is more than a certain number of miles. No transportation. |
| E. | Child receiving comparable education at private or parochial school. |
| F. | Child receiving instruction at home or privately by qualified teacher. |
| G. | Other, as approved by court. |
| H. | Other, as approved by School Board. |
| I. | Child is lawfully and regularly employed (minimum age checked). |

## TABLE 7B

## EXEMPTIONS FROM COMPULSORY EDUCATION REQUIREMENTS

| STATE | A | B | C | D | E | F | G | H | I | | | OTHER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | 16 | 15 | 14 | |
| Alabama | X | X | | X | X | X | | X | | | | |
| Alaska | X | X | | X | X | X | | X | | | | |
| Arizona | X | X | X | X | X | X | | X | | | X | |
| Arkansas | X | X | X | | X | | | | | | Note a | |
| California | X | X | | | X | X | | | | | | Note b |
| Colorado | X | X | | | X | X | | | | | | |
| Connecticut | X | X | X | | X | X | | X | | | X | |
| Delaware | X | | | | X | | | X | | | | |
| District of Columbia | X | X | X | | X | X | | X | | | X | |
| Florida | X | X | X | X | X | X | X | X | | | | |
| Georgia | X | X | | | X | | | X | | | | |
| Guam | X | | | | X | X | | | | | | |
| Hawaii | X | X | | | X | X | X | X | | X | | |
| Idaho | X | | | | X | | | X | | | | |
| Illinois | X | | | | X | | | | | | Note c | |
| Indiana | X | | | | X | | | X | | | X | |
| Iowa | X | X | X | | X | X | X | | | | X | |
| Kansas | Nd | X | Ne | | | X | | | | | | |
| Kentucky | X | X | | | X | X | | | | | | |
| Louisiana | X | | | X | | | | | | | | |
| Maine | | Nf | | | X | | | X | | | | |
| Maryland | X | | | | X | X | | X | | | | |
| Massachusetts | X | | | | X | X | | X | | | Note g | |
| Michigan | | | | X | X | | | | | | | |
| Minnesota | X | Nh | | | X | | | | | | | |
| Mississippi | X | | | | X | X | | | | | | |
| Missouri | X | | | | X | X | | | | | X | |

NOTES:

a) If services are needed to support widowed mother can be exempted; no age in statute.

b) Child is 16, has finished 10th grade and been awarded a certificiate of proficiency upon passing standardized exam; child is over 14 and pursuing a vocational course assignment in place of employment.

c) Child who is necessarily employed may be exempted; no age in statute.

d) Exceptional child (mentally or physically handicapped) may be exempted from "normal school attendance" but is still subject to compulsory school provisions.

e) Child having completed 8th grade may choose to attend a regularly supervised program of instruction organized by a recognized religious denomination and approved by school board.

f) Child completed high school or: (1) is 15 or has completed 9th grade; (2) has parental permission; (3) has made written agreement to review, annually, possibility of returning to school.

g) Child is 14, meets requirements of 6th grade completion and holds a permit for employment in private domestic or farm service. Such child may also be excused to engage in non-wage earning activities at home.

h) Child has completed studies required in 10th grade.

## TABLE 7B

## EXEMPTIONS FROM COMPULSORY EDUCATION REQUIREMENTS

| STATE | A | B | C | D | E | F | G | H | I |  |  | OTHER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  |  |  |  |  |  |  |  | 16 | 15 | 14 |  |
| Montana | X | X | X |  | X | X | X | X |  |  |  |  |
| Nebraska | X | X | X |  | X |  |  |  |  |  | Note i |  |
| Nevada | X | X | X | X | X | X | X |  |  |  | **Note j** |  |
| New Hampshire | X | X | Nk |  | X |  |  | X |  |  |  |  |
| New Jersey | X |  |  |  | X | X |  | X |  |  |  |  |
| New Mexico | X | X |  |  |  |  |  |  |  |  | X |  |
| New York | X | X |  |  |  | X |  | X |  |  |  | Note 1 |
| North Carolina | X |  |  |  | X |  |  | X |  |  |  |  |
| North Dakota | X | X |  |  | X |  |  | X |  |  |  |  |
| Ohio | X | X |  |  | X | X |  | X |  |  |  |  |
| Oklahoma | X | X |  |  | X |  | X | X |  |  |  | Note n |
| Oregon | X | X | X | X | X | X |  | X | X |  |  | Note o |
| Pennsylvania | X | X |  | X | X | X |  | X | Np | Nq | r |  |

NOTES:

i) Child is 14, has completed 8th grade and is necessarily employed for own support or for support of any dependents.

j) Child is 14 and must work to support parents, or has completed 8th grade and is employed.

k) Child is 14, has completed elementary school studies and district where he resides does not maintain a high school.

l) Minor with full-time employment certificate is exempted. An unemployed minor with a full-time employment certificate may be exempted part-time.

m) Child is 16 and has completed a vocational program or special education program adequate for preparation for a legal occupation.

n) Child is 16 and court and school district agree.

o) Child is exempted if: (1) lawfully employed full-time, or (2) lawfully employed part-time (may attend school part-time), or (3) has mutual consent of school administration and parent or legal guardian.

p) Child 16 and holds certificate of employment and is regularly engaged in useful employment. Child 16 may enroll in trade or business school with district superintendant's approval.

q) Child 15 and is engaged in farm work, or domestic service in private home as permitted by superintendant.

r) Child is 14 and completed highest grade of elementary school and is engaged in farm work or domestic work as permitted by superintendant.

TABLE 7B

EXEMPTIONS FROM COMPULSORY EDUCATION REQUIREMENTS

| STATE | A | B | C | D | E | F | G | H | I | | | OTHER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | 16 | 15 | 14 | |
| Puerto Rico | | | | | | | | X | | | | |
| Rhode Island | X | | | | X | X | X | X | | | | |
| South Carolina | X | X | X | | X | | X | | X | | | |
| South Dakota | | X | X | | | | | X | | | | |
| Tennessee | X | X | | X | X | X | | X | | | | |
| Texas | X | | | | X | X | | | | | | Note s |
| Utah | X | X | X | X | X | X | | X | | | | Note t |
| Vermont | X | Nu | Nv | | | | | X | | | | |
| Virgin Islands | X | X | Nw | Nw | X | X | | X | | | | Note x |
| Virginia | X | | | X | X | X | X | X | | | | |
| Washington | X | Ny | | | X | | | X | X | | | |
| West Virginia | X | X | | X | X | X | | | | | | |
| Wisconsin | | X | | | X | | | X | | | | Note z |
| Wyoming | | X | X | | X | | | X | | | | |

NOTES:

s) Child is 17, has completed 9th grade and services are needed to support parent or guardian.

t) Child is 16, has completed 8th grade or services are required for the support of mother or invalid father. Exemption is part-time.

u) Child has completed 10th grade.

v) Child has completed first six grades, is 15 and services are needed for support of dependents or for any other sufficient reason.

w) Child has completed course of elementary school study and lives beyond walking distance to school and free transportation is not provided.

x) Child is 11 and has been found to be incapable of profiting from instruction (after adequate testing).

y) Child is 15 and has attained proficiency required of first nine grades.

z) Child is 15 and attends vocational or technical school within district. Child is in good academic standing and in last semester of high school; may obtain part-time exemption.

## Chapter 8: Child's Voice in Custody Proceedings

This chapter deals with issues and concerns that have essentially emerged and taken shape during the later half of the 70's materially effecting, as a consequence, our changing views of the concept of mature minor.

Most states have some law which permits a mature adolescent, usually around the age of 14, to make a selection when the issue of change of child custody comes up. Related to this is the issue of guardian ad litem (GAL) and representation of a child in different types of court proceedings such as divorce, change of custody, juvenile and other types of child oriented proceedings.

Perhaps the most significant procedural change to be seen in the area of child custody and the one most likely to continue to assert itself in the 80's is the concept of representation of the minor in such hearings. This development, known as GAL, has been alluded to in those chapters dealing with representation of the child, most notably in abuse and neglect proceedings. However, in the 80's there is every expectation that more and more courts that have children come before them will seek to have adequate counsel represent the child. The area with the most imperative need for such representation is in the area of child custody.

Nearly every State has modified its statutes to comply with the Child Abuse and Neglect Prevention and Treatment Act of 1974 requirement for the provision of a guardian ad litem in all child abuse and neglect cases that result in court action. This has spilled over into other related areas concerning the status of children and by the end of the next decade a substantial number of States may be expected to expand their utilization of the guardian ad litem concept into representation of children in a variety of matters involving the potential for significant changes in their legal status.

Of course, this is a developing area and the problems inherit therein are many. For instance, should the guardian ad litem be an attorney or should he/she be someone who is most familiar with the children before the court and/or a community's resources. In addition, what are the duties of the guardian ad litem towards the child during, before and after litigation? Does the guardian ad litem have the same responsibilities as a normal guardian or are they somehow restricted? These are just a few of the many questions which will need to be dealt with as the concept of the guardian ad litem evolves to meet a growing demand that in any proceeding in which a child's "best interests" are involved he or she must have a voice through adequate representation.

Perhaps no other issue concerning adolescents will receive such intense scrutiny and be subject to as much change as that of the degree to which and conditions within which youth will be determined to have a right to counsel and representation in noncriminal or non-delinquency oriented legal actions concerning their current statutes and futures.

# CHAPTER 8

## CHILD'S VOICE IN CUSTODY DECISIONS

In most instances, parents are the designated decisionmakers for a child during the child's minority. As noted in earlier chapters, when the child is living with his parents, the court will generally not interfere with the decisions the parents make for the child unless the decisions create situations which endanger the child. The parents decide when to take the child's wishes into consideration and how much weight to give those wishes. If the child, even an older child, disagrees with his parents, the court will not provide a forum for the child to present his views.

Placement--which adult he will live with--is a matter of crucial importance to the child. Generally, the child has little say in the matter; he is born to parents, is expected to stay with them until he becomes an adult, and will only rarely be listened to if he wants to live with someone else. If, however, the question of custody arises because the parents cannot agree on which parent the child will live with, or because there is no parent, or because the parents' rights have been terminated,[1] the court does not need to respect family autonomy and protect family harmony by refusing to solicit or listen to the child's opinion. The court will be presented with custody decisions that fit this description in divorce custody, guardianship and adoption proceedings. What opportunity will the child have to present his opinions in these proceedings?

### 1. Divorce Custody Cases

Most questions about a child's custody arise in divorce actions. When a divorce is granted, the court will normally determine who will have physical custody of the child. The physical custodian will be the primary decisionmaker, but the court may order that the non-custodian parent has some rights both to temporary custody of the child and to be consulted on important decisions affecting the child.

Parents may agree about which parent should have custody of the child. In that case a court, though not bound to accept the parents' decision, will usually follow the parents' agreed upon plan. Faced with a unified family decision, the court will, as in decisions about the child by an ongoing family, defer to and support the parents. The child must be heard, if at all, by the parents; for he will have little opportunity to be heard by the court. On occasion, a court may feel that the child's interest requires looking behind the parents' plan. The court may believe that the plan is the result of coercion, or that the child was just bargained for without due regard given to his needs. The strongly expressed desire of the child to remain with the parent not chosen by the parents might be a factor that would trigger this further investigation by the court.

---

[1] Most jurisdictions have statutes which permit termination of parental rights in cases of abandonment, parental corruption, severe abuse or (in some) even neglect. See e.g., CONN. GEN. ANN., Sec. 45-51 (Supp. 1979); WIS. STAT. ANN., Sec. 48.40 (Supp. 1979).

Parents may, on the other hand, disagree about which parent should be the custodial parent after divorce. It has been estimated that this occurs in less than 10 percent[2] of divorces, but 10 percent still works out to include a large number of children who are the subject of a dispute between their parents.[3] If one parent is clearly unfit to care for the child, the court's problem is simplified. In most cases, however, the court is faced with two parents, each of whom is at least minimally fit to raise the child.

In the past, the court has been guided in deciding between otherwise acceptable parents by specific rules. At early common law the father was considered the natural guardian of his children. His right to custody, absent danger to the child, was absolute.[4] Later, both parents were recognized as having rights in and obligations toward the child. A rule favoring mothers was gradually developed for those children who were of "tender years." More recently, the law has evolved away from rigid rules of preference and toward a controlling legal standard that is less specific and is more child-need rather than parent-right centered. Most jurisdictions today decide divorce custody disputes by asking what is in the "best interest of the child."

What room is there under the "best interest" test, then, for a child's wishes in those cases in which parents disagree? Many factors will be considered in determining the child's best interest. The Uniform Marriage and Divorce Act states that the child's wishes should be one of those factors. In Section 402 the Act states:

> (1) The court shall determine custody in accordance with the best interest of the child. The court shall consider all relevant factors including:. . .

---

[2] Hansen, "The Role and Rights of Children in Divorce Actions," 6 J. FAM. L. 1, 2 (1966). It is probable that this percentage has increased since 1966. With the advent of no-fault divorce, much hostility that was formerly channeled into the "fault" determinations now finds its way into child custody proceedings. Additionally, with the move away from tender years maternal preference statutes and the increasing move toward sex neutral standards, fathers who have previously not thought to ask for custody of their children are contesting custody.

[3] The number was estimated to be 1.2 million in 1973. R. Mnookin, Child, Family and State, 626 (1978).

[4] H. Clark, Domestic Relations, 584 (1968).

(b) The wishes of the child to his custodian.[5]

Ten of the 46 jurisdictions which have statutes that mention a child's preference follow the UMDA in requiring the court to consider the child's wishes. These statutes do not require that the child be any specific age before his wishes will be heard. Nor do they require that the court make a preliminary determination of the child's capacity to make an intelligent choice. The court does, however, have discretion to decide how much weight to give to the child's preference. In exercising this discretion the court might take both the child's age and his mental capacity into consideration. The court will also assess the strength of the child's desire to remain with one parent and the extent to which the child's preference has been manipulated by a parent.

A second common statutory pattern (9 states) requires that the court make an initial determination of whether the child is of sufficient age and capacity to be able to form an intelligent preference as to custody. If the child is determined to be capable, his preference is to be considered by the court. The court has discretion at two stages: the initial determination and the later decision about how much weight to accord the child's preference. Courts in states with this pattern of statute are not to make arbitrary determinations based on age. The Nebraska statute is clear on this point. The statute requires the court to consider "the desires and wishes of the child if of an age of comprehension, regardless of their chronological age, when such desires and wishes are based on sound reasoning."[6] In practice, however, courts are likely to have an informal rule based on chronological age by which they determine capacity.

A third group of statutes (4 states) require the court to give controlling weight to the preference of a child who has reached a certain age. These statutes do not require the court to determine mental capacity; they presume capacity at a certain age. The child's preference will not, of course, be controlling where the selected custodian is not fit. In Ohio, a further condition is imposed: the preference must be in the child's best interest. Obviously, this brings discretion back into the picture and means that the child's preference is not really controlling. In Texas, the statute allows a child of 14 to choose, but adds explicitly "subject to the court's discretion."

Statutes in 12 jurisdictions do not require consideration of the child's preference. These statutes state that the court may, usually after a preliminary determination of capacity, consider the child's preference.

One further question remains: If a child is to be allowed a voice in the custody decision, how should the child's wishes be ascertained and presented to the court? Children could, of course, be placed on the stand and examined as other witnesses. This would require that the child be qualified under the jurisdiction's statute with respect to required testimonial capacity. Even if a child is competent to testify though it is possible that he ought not to be made to testify in open court. One court has said:

---

[5] The Uniform Marriage and Divorce Act was drafted by the National Conference of Commissions on State Laws. It was promulgated in August of 1970.

[6] NEB. REV. STAT., 42-364.

> It requires no great knowledge of child psychology to recognize that a child, already suffering from the trauma of a broken home, should not be placed in the position of having its relationship with either parent further jeopardized by having to publicly relate its difficulties with them or be required to openly choose between them. The trial court, however, if it is to obtain a full understanding of the effect of parental differences on the child, as well as honest expressions of the child's desires and attitudes, will in many cases need to interview the child. There can be no question that an interview in private will limit the psychological danger to the child and will also be far more informative and worthwhile than the traditional procedures of the adversary system--an examination of the child under oath in open court.[7]

Even for an older child an interview in the judge's chambers might be preferable.

In some jurisdictions a social service agency or probation department serves an investigative function for the domestic relations court. The custody worker will spend time with the child and the parent and will speak with the child to elicit the child's opinion either directly or indirectly.

One other way to make sure that the child's wishes will be considered in a custody hearing is to appoint an advocate to speak for the child during the proceedings. Because children have not traditionally been accorded active party status[8] in divorce, authority to appoint an advocate for the child must be derived from statute. Twenty-three jurisdictions provide for an advocate to be appointed at the discretion of the trial court judge. In some jurisdictions the advocate must be an attorney: Arizona, Colorado, California, Connecticut, Delaware, Washington, D.C., Iowa, Kentucky, Maryland, Nebraska, New York, Utah, Vermont and Washington. In other jurisdictions the advocate is termed a guardian ad litem: Hawaii, Massachusetts, Minnesota, New Hampshire and Wisconsin. In two jurisdictions, the advocate may be either an attorney or a guardian ad litem. Every jurisdiction provides that when children are parties to a legal proceeding a guardian ad litem must be appointed to pursue or defend the action in the child's name. Some jurisdictions by case law have allowed this type of guardian ad litem to present the child's views in a divorce action.

---

[7] Lincoln v. Lincoln, 24 N.Y.2d 270, 299 N.Y.S.2d 842, 247 N.E. 2d 659, 660 (1969).

[8] Clark, supra, note 4, at 381.

The child's advocate, under whatever name, is a new entity. His role is unclear; it is rarely defined in the statute that provides for his appointment. As far as specific responsibilities, he will be expected to investigate, deal with agencies involved in any investigation for the court, attend depositions and cross-examine, appear at the hearing and be heard on all aspects affecting the child, introduce evidence, call and question witnesses, and make recommendations for the child's placement and support.

The problem with this method is precisely what advocacy stand the advocate should take. Is he to represent the child's stated view or is he to be yet another adult in the proceeding who assesses what is in the child's best interest? The older child, especially, will want an advocate who will speak for him and not about him.

### 2. Guardianship

A guardianship proceeding usually arises when there is no parent alive or available and another adult wishes to assume custodial right and obligation over the child. Once appointed, the guardian's legal relationship with the minor in his care is similar to but not as extensive as that of a natural parent to his child. An adult who is appointed guardian of the minor's person (as opposed to his property) had the right to have the minor live with him, to control and discipline the child and to make decisions about the child including how he will be educated and what medical care he will receive. The Model Probate Code states that "it is the duty of the guardian of the person to care for and maintain the ward and, if he is a minor, to see that he is properly raised and educated. . ."[9] A guardian does not, however, assume the duty to support the child.

A guardianship of the person of a minor terminates when the ward reaches the age of majority or marries. A guardianship may be terminated earlier if "good cause" (as set out in the state's statute) is shown. In some jurisdictions a minor of a certain age (usually 14) can petition to replace an appointed guardian with another adult.

The Uniform Probate Code gives a minor of 14 or more years the right to nominate his guardian ad litem unless his choice is "clearly contrary to the best interests of the minor." Most jurisdictions follow this pattern by setting an age at which the child's choice is determinative unless the nominated person is found to be unfit. If the person nominated is unfit, the minor should have the right to nominate another person.

In 47 jurisdictions the age is "14" or "over 14." In three jurisdictions the court must consider the child's nomination only if the child's mental capacity is established. Only two jurisdictions state that the child's wishes "may be considered by the court." For younger children of sufficient intelligence and maturity a court may consider the child's wishes. In five jurisdictions, the child's wishes are not mentioned.

---

[9] Model Probate Code, Sec. 49.220 (1946).

Deference to the child's wishes in guardianship proceedings makes sense. The child is not being asked to choose between parents, he is being asked to approve the selection of an adult from a large number of possible replacements when his natural parents are unavailable to care for him. His choice is less likely to be the result of manipulation by the adults in his world and more likely to be a dependable statement that this is a person he trusts to care for him. If a parent is involved, the problem of what voice to give the child is more complex. A parent may be involved in a guardianship proceeding when a custodial parent dies and the non-custodial parent and custodial step-parent each wants custody. Statutes do not seem to treat the child's nominations any differently in these cases.

A guardianship proceeding is not, however, seen as an appropriate vehicle for an older child to move himself out of a functioning family. Even in a jurisdiction where the child has reached the age at which he may petition the court to have a guardian appointed and may nominate the person to be appointed a court might refuse to be used by a minor who wishes to displace his parents. One court[10] used the threshold requirement in its state statute--that the guardianship be necessary and convenient--to avoid appointing the minor's nominee. It stated that only after the court had determined that any guardianship was appropriate would the minor's nomination be honored.

### 3. Adoption

Adoption was unknown at common law. Statutes in every jurisdiction, therefore, define adoption and set out procedures for the adoption of children. In an adoption, a child acquires parents other than his natural parents. In most jurisdictions, the resulting parent-child relationship is identical under the law to that of a natural parent and child.[11]

As a threshold matter, most jurisdictions require the consent of the natural parents, the adopting parents and of the child to be adopted if he is over a certain age. Twenty-five states set the age at "14," or "over 14;" 14 at age 12. Eight states require consent of a child "10" or "over 10." In eight states the court may dispense with the requirement for other reasons. If the minor is of the age set out in the statute and gave his consent free of fraud, duress or undue influence, there is no inquiry about what weight is to be given to the child's wishes. The adoptive family has been screened by an agency and approved for the child. At the hearing, the court does not have to decide between competing parties; it must simply approve the arrangement that has been consented to by the interested parties.

Minor parents should know that for a child to be placed for adoption the consent of both parents is required. Statutes that used to require only the mother's consent for adoption of an illegitimate child are being replaced with sex-neutral statutes. State laws do, however, provide for adoption without consent of the parents in specified circumstances. The parents' rights to the child may have been involuntarily terminated under a state's termination statute or as a disposition in a neglect/abuse proceeding. Or, the jurisdiction may have an adoption statute which authorizes adoption without the parents' consent because of the parents' conduct (typically abandonment of the child) or because it is in the child's best interest.

---

[10] Guardianship of Kestera, 41 Cal.2d 639, 262 P.2d 317 (1953).

[11] See, e.g., Iowa Code, Sec. 600.6 (1970).

## Postscript

Jurisdictions usually have separate statutes setting standards for making decisions about a child's physical custody for each type of proceeding: divorce, guardianship and adoption. There will also be a statute covering custody decisions made by the juvenile court.[12] Commentators have suggested that there should be a single set of standards for resolution of custody disputes in any form. Courts and legislatures are slowly beginning to move in this direction. In California, for example, the Family Law Act, Section 4600 of the Civil Code, provides that:

> [In] any proceedings where there is at issue the custody of a minor child, the court may during the pendency of the proceeding. . .make such order for the custody of the child during his minority as may seem necessary and proper. If a child is of sufficient age and capacity so as to form an intelligent preference as to custody, the court shall consider and give due weight to his wishes. . .[13]

The section continues by setting out other factors the court shall consider. The California Court has interpreted this as applying to a variety of proceedings, not just divorce custody cases.[14]

---

[12] See, e.g., MONT. REV. CODE ANN., Sec. 61-205(1)(c), Sec. 61-211 (1970).

[13] Cal. Civ. Code, Sec. 4600.

[14] See, e.g., In re B.G., 11 Cal.3d 679, 523 P.2d 244 (1974).

## TABLE 8A

## CHILD'S VOICE IN DIVORCE CUSTODY DISPUTES

| STATE | STATUTE SILENT AS TO CHILD'S WISHES | CHILD'S WISHES MAY BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED IF MENTAL CAPACITY IS ESTABLISHED | CHILD'S WISHES CONTROL IF OF CERTAIN AGE | COURT MAY APPOINT ATTORNEY OR OTHER REPRESENTATIVE FOR CHILD | STATUTE SILENT; CASE LAW ALLOWS CONSIDERATION OF CHILD'S WISHES | OTHER |
|---|---|---|---|---|---|---|---|---|
| Alabama | X | | | | | | | |
| Alaska | | | X | | | X | | |
| Arizona | | X | | | | X | | |
| Arkansas | X | | | | | | | |
| California | | | | X | | X | | |
| Colorado | | | X | | | | | |
| Connecticut | | | | X | | X | | |
| Delaware | | | X | | | X | | |
| Dist. of Col | | | Note a | | | X | | |
| Florida | | | | X | | | | |
| Georgia | | | | | Note b | | | |
| Guam | | | | X | | | | |

NOTES:

a) The court shall consider the wishes of the child where practicable.

b) A child 14 years old has the right to select the custodial parent. Such selection shall be controlling unless the parent selected is determined not to be a fit and proper custodian.

## TABLE 8A

## CHILD'S VOICE IN DIVORCE CUSTODY DISPUTES

| STATE | STATUTE SILENT AS TO CHILD'S WISHES | CHILD'S WISHES MAY BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED IF MENTAL CAPACITY IS ESTABLISHED | CHILD'S WISHES CONTROL IF OF CERTAIN AGE | COURT MAY APPOINT ATTORNEY OR OTHER REPRESENTATIVE FOR CHILD | STATUTE SILENT; CASE LAW ALLOWS CONSIDERATION OF CHILD'S WISHES | OTHER |
|---|---|---|---|---|---|---|---|---|
| Hawaii | | | | X | | X | | |
| Idaho | | X | | | | | | |
| Illinois | | | X | | | X | | |
| Indiana | | | X | | | X | | |
| Iowa | | | | | | X | | |
| Kansas | | | | | | X | Note c | |
| Kentucky | | | X | | | X | | |
| Louisiana | | | | | | | Note d | |
| Maine | X | | | | | | | |
| Maryland | | | | Note e | Note e | | | Note e |

NOTES:

c) The best interests of the child are paramount. In Greene v. Greene (1968), 201 Kan. 701, 443 P. 2d 263, it is stated that the child's preference may be considered but is always subordinate to the over-all best interests and welfare of the child.

d) The court shall award custody in accordance with the best interests of the child. In Barham v. Barham (App. 1976), 337 So. 2d 289, writ refused 340 So. 2d 315, it is stated that although the child's wishes are not determinative, they are a factor to be considered, especially where the child is not of tender age.

e) The court shall direct who will have custody. In Deckman v. Deckman (1972), 15 Md. App. 553, 292 A. 2d 112, it is stated that the preference of a child old enough to make a rational choice may be considered. A child 16 years old and subject to a custody decree may petition the court to amend the decree; the court shall hold further hearings and amend the decree and place the child in the custody of the parent designated by the child.

## TABLE 8A

## CHILD'S VOICE IN DIVORCE CUSTODY DISPUTES

| STATE | STATUTE SILENT AS TO CHILD'S WISHES | CHILD'S WISHES MAY BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED IF MENTAL CAPACITY IS ESTABLISHED | CHILD'S WISHES CONTROL IF OF CERTAIN AGE | COURT MAY APPOINT ATTORNEY OR OTHER REPRESENTATIVE FOR CHILD | STATUTE SILENT; CASE LAW ALLOWS CONSIDERATION OF CHILD'S WISHES | OTHER |
|---|---|---|---|---|---|---|---|---|
| Mass. | X | | | | | | | |
| Michigan | | | | X | | | | |
| Minnesota | | | | X | | X | | |
| Mississippi | | | | | Note f | | | |
| Missouri | | | X | | | | | |
| Montana | | | X | | | | | |
| Nebraska | | | | X | | X | | |
| Nevada | X | | | | | | | |
| New Hampshire | | X | | | | X | | |
| New Jersey | | | | X | | | | |
| New Mexico | | | X | | | X | | |
| New York | | | | | | X | Note g | |

NOTES:

f) If the court finds that both parents are fit and proper custodians, and that either is able adequately to provide for the child's care and maintenance, and that it would be to the best interest and welfare of the child, then a child 12 years old shall select the custodial parent.

g) The court shall make such order for custody as, in the court's discretion, justice requires, having regard to the best interests of the child. In Calder v. Woolverton (1975) 50 A.D. 2d 587, 375 N.Y.S. 2d 150, aff'd 39 N.Y. 2d 1042, 387 N.Y.S. 2d 252, 355 N.E. 2d 306, it is stated that the wishes of the child are not determinative but should be considered if the child is not of tender years.

## TABLE 8A

## CHILD'S VOICE IN DIVORCE CUSTODY DISPUTES

| STATE | STATUTE SILENT AS TO CHILD'S WISHES | CHILD'S WISHES MAY BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED IF MENTAL CAPACITY IS ESTABLISHED | CHILD'S WISHES CONTROL IF OF CERTAIN AGE | COURT MAY APPOINT ATTORNEY OR OTHER REPRESENTATIVE FOR CHILD | STATUTE SILENT; CASE LAW ALLOWS CONSIDERATION OF CHILD'S WISHES | OTHER |
|---|---|---|---|---|---|---|---|---|
| N. Carolina | | X | | | | | | |
| North Dakota | X | | | | | | | |
| Ohio | | | | | Note h | | | |
| Oklahoma | | X | | | | | | |
| Oregon | | | | | | X | | |
| Pennsylvania | | | | | | | Note i | |
| Puerto Rico | | | | | | | | |
| Rhode Island | | | | | | X | Note j | |
| S. Carolina | | X | | | | | | |
| South Dakota | x | | | | | | | |
| Tennessee | | X | | | | | | |

NOTES:

h) A child 12 years old may be allowed to choose the custodial parent, unless the court finds that the parent selected is unfit to take charge or that it would not be in the child's best interest to allow a choice.

i) The court shall direct who will have custody. In Smith v. Smith (1977), 246 Pa. Super 609, 371 A. 2d 998, it is stated that the welfare and interest of the child is the paramount consideration. The court notes that the child's wishes were considered, and it affirms the custody award.

j) The court shall award custody to the parent whom the court, in its exercise of sound discretion, considers best fitted to serve the child's best interest and welfare. In Castro v. Melendez (1961) 82 P.R.R. 556, it is stated that the child's wishes are an element which although not controlling, merits consideration.

## TABLE 8A

## CHILD'S VOICE IN DIVORCE CUSTODY DISPUTES

| STATE | STATUTE SILENT AS TO CHILD'S WISHES | CHILD'S WISHES MAY BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED | CHILD'S WISHES SHALL BE CONSIDERED IF MENTAL CAPACITY IS ESTABLISHED | CHILD'S WISHES CONTROL IF OF CERTAIN AGE | COURT MAY APPOINT ATTORNEY OR OTHER REPRESENTATIVE FOR CHILD | STATUTE SILENT; CASE LAW ALLOWS CONSIDERATION OF CHILD'S WISHES | OTHER |
|---|---|---|---|---|---|---|---|---|
| Texas | | | | | Note k | X | | |
| Utah | | X | | | | | | |
| Vermont | | | | | | X | | |
| Virginia | | X | | | | X | | |
| Virgin Isls. | x | | | | | | | |
| Washington | | | X | | | | | |
| W. Virginia | | X | | | | | | |
| Wisconsin | | X | | | | X | | |
| Wyoming | | X | | | | | | |

Note k) If the child is 14 years old, he or she may choose the custodial parent, subject to the court's discretion.

TABLE 8B

CHILD'S VOICE IN ADOPTION OR GUARDIANSHIP PROCEEDINGS

| STATE | ADOPTION | | | | | GUARDIANSHIP | | |
|---|---|---|---|---|---|---|---|---|
| | CHILD'S CONSENT REQUIRED IF CERTAIN AGE | COURT MAY DISPENSE WITH RE-QUIREMENT IN CHILD'S BEST INTEREST | COURT MAY DISPENSE WITH RE-QUIREMENT FOR OTHER REASON | CHILD'S CONSENT NOT MEN-TIONED IN STATUTE | OTHER PRO-TECTIONS | CHILD'S WISHES SHALL BE CONSIDERED IF CHILD IS SPECIFIED AGE | CHILD'S WISHES SHALL BE CONSIDERED IF MENTAL CAPACITY IS ESTABLISHED | CHILD'S WISHES NOT MEN-TIONED IN STATUTE |
| Alabama | Over 14 | | | | | Over 14 | | |
| Alaska | Over 10 | X | | | | 14 | | |
| Arizona | 12 | | | | | 14 | | |
| Arkansas | Over 10 | X | | | | 14 | | |
| California | Over 12 | | | | | Over 14, Note a | | |
| Colorado | 12 | | | | | 14 | | |
| Connecticut | 14 | | | | | 14 | | |
| Delaware | 14 | X | | | | Over 14 | | |
| District of Columbia | 14 | | | | | Over 14 | | |
| Florida | Over 12 | X | | | | Any age | | |
| Georgia | 14 | | | | | Over 14 | | |
| Guam | Over 12 | | | | | | X | |
| Hawaii | Over 10 | X | | | | 14 | | |
| Idaho | Over 12 | | | | | 14 | | |
| Illinois | 14 | | Note b | | | 14 | | |
| Indiana | Over 14 | | | | | 14 | | |
| Iowa | 14 | | Note c | | | 14 | | |
| Kansas | Over 14<br>Note d | | | | | Over 14 | And X | |

NOTES:

a) If the child is not over 14 but is of sufficient age to form an intelligent preference, the court may consider that preference.

b) If the child to be adopted is in need of mental treatment or is mentally retarded, the court shall waive the requirement of the child's consent.

c) If the child refuses to consent, the petitioner for adoption may attach to the petition a verified statement of such refusal. The court shall determine, at the adoption hearing, whether in the best interests of the child and the petitioner, the particular consent shall be unnecessary.

d) The child must be both 14 years old and of sound intellect before his or her consent is required.

TABLE 8B

## CHILD'S VOICE IN ADOPTION OR GUARDIANSHIP PROCEEDINGS

| STATE | ADOPTION | | | | | GUARDIANSHIP | | |
|---|---|---|---|---|---|---|---|---|
| | CHILD'S CONSENT REQUIRED IF CERTAIN AGE | COURT MAY DISPENSE WITH REQUIREMENT IN CHILD'S BEST INTEREST | COURT MAY DISPENSE WITH REQUIREMENT FOR OTHER REASON | CHILD'S CONSENT NOT MENTIONED IN STATUTE | OTHER PROTECTIONS | CHILD'S WISHES SHALL BE CONSIDERED IF CHILD IS SPECIFIED AGE | CHILD'S WISHES SHALL BE CONSIDERED IF MENTAL CAPACITY IS ESTABLISHED | CHILD'S WISHES NOT MENTIONED IN STATUTE |
| Kentucky | 12 | | court discretion | | | 14 | | |
| Louisiana | | | | X | | | | X |
| Maine | 14 | | | | | Over 14,<br>Note e | | |
| Maryland | 10 | | | | | 14 | | |
| Massachusetts | Over 12 | | | | | Over 14 | | |
| Michigan | Over 10 | | | | | 14 | | |
| Minnesota | Over 14 | | | | | 14 | | |
| Mississippi | Over 14<br>Note f | | | | | Over 14 | AND X | |
| Missouri | 14 | | child lacks mental capacity | | | Over 14 | | |
| Montana | | | | X | | 14 | | |
| Nebraska | Over 14 | | | | | 14 | | |
| Nevada | Over 14 | | | | | 14 | | |
| New Hampshire | 12 | | | | Note g | | Note h | |

NOTES:

e) Effective January 1, 1981, the child need only be 14 years old.

f) The consent of the child is required or personal service of process shall be had upon the child in the same manner and in the same effect as if the child were an adult.

g) If the child is adjudicated incompetent, mentally ill, or retarded, or is in any other way deemed mentally deficient, the court shall appoint a guardian to represent the child.

h) The consent of the child to his or her guardian is not necessary. The court shall ascertain the child's preference, however, and give it such weight as under the circumstances may seem just.

## TABLE 8B

## CHILD'S VOICE IN ADOPTION OR GUARDIANSHIP PROCEEDINGS

| STATE | ADOPTION | | | | | GUARDIANSHIP | | |
|---|---|---|---|---|---|---|---|---|
| | CHILD'S CONSENT REQUIRED IF CERTAIN AGE | COURT MAY DISPENSE WITH REQUIREMENT IN CHILD'S BEST INTEREST | COURT MAY DISPENSE WITH REQUIREMENT FOR OTHER REASON | CHILD'S CONSENT NOT MENTIONED IN STATUTE | OTHER PROTECTIONS | CHILD'S WISHES SHALL BE CONSIDERED IF CHILD IS SPECIFIED AGE | CHILD'S WISHES SHALL BE CONSIDERED IF MENTAL CAPACITY IS ESTABLISHED | CHILD'S WISHES NOT MENTIONED IN STATUTE |
| New Jersey | | | | | Note i | 14 | | |
| New Mexico | Over 10 | X | | | | 14 | | |
| New York | 14 | | court discretion | | | Over 14 | | |
| North Carolina | 12, Note j | | | | | | | X |
| North Dakota | Over 10 | X | | | | 14 | | |
| Ohio | Over 12 | | Note k | | | Over 14 | | |
| Oklahoma | 12 | | | | | Over 14 | | |
| Oregon | 14 | | | | | 14 | | |
| Pennsylvania | Over 12 | | | | | | | X |
| Puerto Rico | Over 10<br>Note 1 | | good cause | | | | | X |
| Rhode Island | 14 | | | | | 14 | | |
| South Carolina | | | | | Note m | 14, Note n | | |

NOTES:

i) If the child is at least 10, his wishes will be solicited by the court and given consideration if the child is of sufficient capacity to form an intelligent opinion.

j) Statute speaks of a child who becomes 12 years old before the granting of the final order of adoption.

k) If the child has resided in the petitioner's home continuously for a period of 8 years or more immediately preceding the filing of the petition for adoption, the child's written consent shall not be required.

l) The child must be over 10 years old and must not be incapacitated before his or her consent is required.

m) Before any hearing on adoption, the child shall be served with a copy of the petition and a guardian ad litem shall be appointed.

n) The child's wishes as to the initial appointment of the guardian are not mentioned by statute. If, however, the child moves to and takes up legal residence in another county within the state, the child 14 years old may petition for the appointment of a guardian within that county.

## TABLE 8B

## CHILD'S VOICE IN ADOPTION OR GUARDIANSHIP PROCEEDINGS

| STATE | ADOPTION | | | | | GUARDIANSHIP | | |
|---|---|---|---|---|---|---|---|---|
| | CHILD'S CONSENT REQUIRED IF CERTAIN AGE | COURT MAY DISPENSE WITH RE-QUIREMENT IN CHILD'S BEST INTEREST | COURT MAY DISPENSE WITH RE-QUIREMENT FOR OTHER REASON | CHILD'S CONSENT NOT MEN-TIONED IN STATUTE | OTHER PRO-TECTIONS | CHILD'S WISHES SHALL BE CONSIDERED IF CHILD IS SPECIFIED AGE | CHILD'S WISHES SHALL BE CONSIDERED IF MENTAL CAPACITY IS ESTABLISHED | CHILD'S WISHES NOT MEN-TIONED IN STATUTE |
| South Dakota | Over 12 | | | | | 14 | | |
| Tennessee | 14 | | | | | 14 | | |
| Texas | 14 | | | | | 14 | | |
| Utah | Over 12 | | | | | 14 | | |
| Vermont | | | | | Note o | 14 | | |
| Virginia | 14 | X | | | | Over 14 | | |
| Virgin Islands | 14 | | | | | Over 14 | | |
| Washington | 14 | | | | | 14 | | |
| West Virginia | 12 | | Extra-ordinary cause | | | Over 14 | | |
| Wisconsin | 14 | | | | | Over 14 | | |
| Wyoming | Over 14 | | | | | 14 | | |

Note o) In the case of a married child the consent of the child and of the child's spouse is required in lieu of parental consent.

# TREND SUMMARY

## Chapter 9: Regulating the Conduct of Others to Take Minors

This Chapter, which consists of several subsections, reflects very little substantive change over the past five years and probably will see only minor technical changes in the near future. These areas are broken down as follows:

(1) Contributing to the Delinquency of a Minor: This topic shows mostly technical changes which attempt to broaden the classification of persons who attempt to contribute to the delinquency of such a minor.

(2) Statutory Rape: The most notable changes in this area are the significant number of states which have adjusted their statutory rape statutes to make them "sex neutral" in concept. This allows the inclusion of males in the statutory scheme. Every state now has a statute which prohibits sexual conduct with children under a specified age. The expectations for the 80's include continual technical changes as to the age below which sex with children will be prohibited. This expectation is based on the fact that in the past several years ten states have raised the age for statutory rape while fourteen states have lowered it. This reflects the somewhat confused approach to the issue of sex among adolescents and will continue to be a topic of debate and concern during the 80's.

(3) Sexual Exploitation of Minors: Sexual promiscuity among adolescents has lead to the surfacing of a serious but not commonly acknowledged phenomenon of the sexual exploitation of minors, particularly in reference to their use in the production of pornographic films and other materials. The last five years have seen the widespread development, both at the federal and state level, of legislation which seeks to prohibit such exploitation. Prior to this explosion of legislation, many states had to deal with pornography involving minors under archaic and often times vague laws. While no future substantive legislative changes are apparent at this time, constitutional issues have yet to be decided insofar as the validity of any of these statutes is concerned. There is, therefore, the expectation of a significant amount of case law development as these statutes are tested in the courts.

# CHAPTER 9

## REGULATING THE CONDUCT OF OTHERS TO PROTECT MINORS

As discussed throughout this study, a child, even an older child, does not have the same freedom to participate in activities in the community as does an adult. One way to insure that minors do not engage in prohibited activities is to place sanctions on others who aid or assist the minor in the prohibited conduct. We have earlier mentioned sanctions for those who sell tobacco or alcohol to minors (Chapter 5) or for parents who allow their children to ignore compulsory education laws (Table 7A). In this chapter we examine other statutes which regulate the conduct of others in order to protect minors. The aim of these statutes is to protect minors from activities which may endanger their morals or which require value choices that the state feels even older children are incapable of making. The statutes discussed in this chapter prohibit: harboring/contributing to the delinquency of minors, having sexual intercourse with children below a specified age, selling pornographic materials to children below a specified age or using minors in the production of pornographic materials.

### 1. Contributing to the Delinquency of a Minor

In all jurisdictions except Hawaii there are statutes which make harboring a minor or contributing to his delinquency a crime. (See Table 9A.) These laws are another example of the state offering support to parents who are endeavoring to meet their responsibilities with respect to the care, custody and control of their children. "Harboring" means "receiv[ing] a person without authority for the purpose of so concealing him that another having the lawful right to the custody of such person shall be deprived of the same."[1] "Contributing to the delinquency" of a child describes a range of behavior which includes interfering with the parents' decisionmaking for and guidance of the child.

Some jurisdictions have endeavored to describe the prohibited conduct with precision. In Indiana, for example, the statute states:

> [It is] unlawful for any person to encourage any boy under 16 or any girl under 18...to commit an act of delinquency ...to cause any child to be sent or permit to remain in a house of prostitution...saloon...place where intoxicating liquor is sold...pool room...bucket shop...to knowingly encourage, contribute to or cause any child to violate any law or ordinance.[2]

---

[1] Black's Law Dictionary, 487 (4th ed. 1968).

[2] Ind. Stat. Ann., Sec. 35-46-1-8 (Supp. 1979).

Typically, though, provisions are more general. The Alabama statute, for example, defines the offense of contributing to the delinquency of a minor: "to willfully aid or encourage or cause child to become or remain delinquent, dependent or in need of supervision." In recent years, several states (Maine, Montana, New Jersey and New York) have replaced their contributing laws with equally vague "endangering the welfare of a child" laws.

The problem with vaguely worded statutes is that they give little notice as to what conduct is prohibited. Those people who endeavor to help older children who are runaways or who are trying to establish lives independent from their parents may find that they are guilty of contributing to the child's delinquency though they were trying to avoid violation of the statute. Many of these statutes are being subject to being declared void because of vagueness. A statute that does not set out prohibited conduct with precision might be held to be unconstitutionally vague. Two state courts which have considered general contributing statutes have, however, refused to find them unconstitutional.[3]

The states protect "a juvenile," "a child" or a child below a specified age (14, 16, 17, 18). They regulate the conduct commonly of "any person." In only eight jurisdictions do the statutes specifically address the conduct of adults only. Where the statute speaks of "any person" one minor may be held to have contributed to the delinquency of another minor.[4]

### 2. Statutory Rape

At common law, sexual intercourse with a woman against her will constituted the crime of rape (unless done by her husband). Females below the age of ten were deemed incapable of consent; intercourse with a child below ten was a crime. It was no defense that the child did in fact consent, that the child was capable of making a considered decision, that the child looked like she was ten or over, or even that the child claimed that she was ten or over.

Today every jurisdiction has a statute which prohibits sexual contact with children under a specified age. (See Table 9B.) Though most statutes are worded in terms of intercourse and rape several states have substituted language such as "criminal sexual abuse," "carnal abuse" or "contributing to the sexual delinquency of a minor." In some jurisdictions the language was changed so that males could be included as victims of the offense and females as victimizers. In the last five years, 23 states have added to their statutes to include male victims.

The age below which consent is prohibited is now considerably higher than age ten. The most frequent age is 16, in 26 states. In recent years several jurisdictions have lowered the age of consent, perhaps because minors are engaging in voluntary sexual conduct at an earlier age. Some jurisdictions vary the type of crime and the appropriate punishment according to the age of the minor. In Alabama, for example, carnal knowledge with a child 12 or under is punishable by death or imprisonment for no less than ten years. Carnal knowledge with a child of 13, 14, or 15 is punishable by two to ten years in prison.

---

[3] State v. Swafford, 21 Ariz. App. 474, 520 P.2d 1151 (1974). State v. Lindsay, 281 So. 2d 377 (1973).

[4] *E.g.*, Minnesota's Attorney General has so ruled. OP AG 218-5-12 August 18, 1950.

In some cases irate parents may desire to have the state bring action against a boy even though his sexual contact with the female child was in the course of a relationship and with her consent. Some jurisdictions, desiring to exclude consensual teenage sex from the reach of the criminal law, state in their statutes that the perpetrator must be an adult or must be a number of years older than the victim. In Alabama, for example, that section of the statute that refers to intercourse with 13, 14, 15 year olds does not apply to males who are themselves below 16 years of age. Some jurisdictions handle the problem by setting up a separate section of their statutory rape statute to cover consensual contact. Other jurisdictions, believing that minor females need protection even in those situations in which they desire sexual contact, strictly prohibit contact with females below specific ages at any time and by any male.

### 3. Distribution of Pornographic Material

There are a variety of federal statutes which address the problem of distribution of obscene material: mailing,[5] importation,[6] broadcasting,[7] and transportation[8] of obscene material is prohibited. The current test of obscenity is that announced by the U.S. Supreme Court in Miller v. California.[9] Under Miller, a work is obscene if: (a) the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to prurient interest; (b) the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

None of the federal obscenity statutes refers specifically to distribution of obscene materials to minors. The U.S. Supreme Court has, however, addressed the question. In Ginsberg v. New York[10] the court upheld a New York statute which made it a crime to distribute pornographic material to minors though it met the court's obscenity test and, thus, could be distributed to adults. The court held:

---

[5] 42 USCA, Sec. 1461.

[6] 42 USCA, Sec. 1462.

[7] 42 USCA, Sec. 1464.

[8] 42 USCA, Sec. 1465.

[9] 413 US 15 (1973).

[10] 390 US 629 (1968).

> It is not constitutionally impermissible for New York under this statute, to accord minors under 17 years of age a more restricted right than that assured to adults to judge and determine for themselves what sex material they may read and see.

Where such material is "harmful to their ethical and moral development" states could properly assist parents in safeguarding their children's welfare. The court thus promulgated a separate obscenity standard for children, the "harmful to minors test." Distribution to minors may be prohibited if:

(a) the material appeals to the prurient interest of the average minor,

(b) the material is patently offensive to the prevailing standard in the adult community as a whole with respect to what is suitable for minors,

(c) the material lacks serious literary, artistic, political or scientific value for minors.

The court stated that it did not intend to intrude on parental decisionmaking. If parents want their children to have pornographic materials they can purchase those materials and give them to the children because the regulation is of sale to minors not of possession by minors. The court believed a standard was necessary to guide community interaction with the minor. The court was echoing the reasoning of Judge Fuld three years earlier in People v. Kahan:[11]

> While the supervision of children's reading may best be left to their parents, the knowledge that parental control or guidance cannot always be provided and society's transcendent interest in protecting the welfare of children justifies reasonable regulation of the sale of material to them.

Forty-seven states have enacted statutes regulating the sale of pornographic material to minors. (See Table 9C.) The statutes prohibiting the dissemination of pornographic material to children address a two-tiered industry composed of exhibitors and distributors. Violations constitute a misdemeanor, punishable by fine and minimal prison terms. No criminal liability can be imposed, however, unless knowledge of the character and content of the material distributed or exhibited is established. Knowledge of the minor's age is also an element of the offense in all states.

In 28 states, the prohibited consumer is defined as a child under 18 years of age. Seven states additionally require the child to be unmarried. Eight jurisdictions prohibit distribution to those under 17 years. In Delaware, distribution is prohibited to those under 17 years and to those 17 if the fact of nonage is known to the distributor. North Carolina legislation prohibits distribution to persons under 18. It provides graduated penalties; penalties increase if children are under 16 or under 12. In Hawaii, Puerto Rico and South Carolina, the consumer must be under 16 years of age.

---

[11] 15 N.Y.2d 311, 206 N.E.2d 333 (1965).

Of the 47 jurisdictions which have enacted legislation to regulate the dissemination of obscene material, 27 states require it to be printed, visual or performed live. Eighteen states consider such material only in printed or visual form. Michigan's provisions regulate only printed matter. Wisconsin's legislation applies solely to outdoor theatre.

Exhibitors and distributors are entitled to assert defenses and/or exemptions in 34 states. Of the three types of defense, reasonable and honest mistake as the minor's age is the most widely recognized (27 states). The defense of consent by parent or legal guardian who accompanies the minor is accepted by 17 states. Only Illinois and Louisiana allow the third type of defense, the fact that a warning on the material indicated it was prohibited to minors.

Twenty-five states exempt an individual from liability if he is acting within the scope of his employment for a public institution or specified private entity (library, museum, school, university, church, art gallery) or as a member of the medical or legal professions. Indiana, Maine, Minnesota, Nebraska and West Virginia do not penalize an employee of a distributor or exhibitor who is not financially benefitting from the activity. Finally, parents or legal guardians are exempt by statute in 12 states.

Generally, these provisions are not limited to distribution and exhibition for monetary gain. Non-commercial dissemination of pornographic material to minors does not make the offender any less culpable. Nevertheless an exception regarding parents or legal guardians was clearly implied in Ginsberg. The court pointedly noted "the prohibition against sales to minors does not bar parents who so desire from purchasing the magazines for their children. "State legislators have construed this as a warning that any sanctions which could penalize parents as distributors or exhibitors would be invalidated. As a result, many legislatures have explicitly exempted parents and legal guardians from the prohibitions of the law.

### 4. Sexual Exploitation of Minors

Within recent years, there has been a growing awareness of the shocking use and display of young children in pornographic material. Public outrage has prompted both federal and state lawmakers to enact legislation to combat this problem.

The sexual exploitation of minors is a relatively new phenomenon. Child pornography first appeared as an under-the-counter item in adult book stores in the late 1960's. By 1976, such material had become a popular item among obscenity dealers. Today, the demand far outstrips the supply. Child pornography or "sexploitation" is a nationwide industry with the major production centers in Los Angeles, New York and Chicago.

Medical and legal commentators have analyzed the harm to the child who is a victim of sexual exploitation. Society may suffer in a general sense. Arguments have been advanced that child pornography destroys family values and fundamental moral principles. The child suffers psychologically from performance of the sexual activity and from the exposure following its publication or exhibition. As parents, these exploited minors may later involve their own children. Because of its relation to other forms of child abuse and neglect, child exploitation presents a greater danger than is at first apparent. The producers of the material frequently molest the child. Authorities also see a direct relationship between child pornography and molestation by others.

In the past ten years almost every jurisdiction has enacted legislation to deal with the exploitation of children in pornographic materials. (See Table 9D.) New legislation designed to effect a quick and harsh remedy to the problem may raise some constitutional questions yet to be addressed by the courts. However, in balancing the right of free expression and the right of the legislature to protect children against sexual exploitation, the trend appears to tip the scales in favor of protecting the children. In addition, states have anticipated the free speech issue in two ways:

(1) By including a judicial test for obscenity (Miller or Ginsberg) in defining child pornography. This approach has been criticized as ignoring exploitation of minors in sexually explicit but non-obscene material. Among these states that have obscenity requirements, the statutory definition of obscene varies. Most use obscene as construed in Miller. Some use the Ginsberg "harmful to minors" test. Other jurisdictions provide an affirmative defense, allowing the defendant to escape liability if the material has a bona fide scientific, educational or governmental justification.

(2) By declaring that child pornography legislation is directed at deterring a specific conduct, child abuse, and is not seeking to abridge free speech. Those jurisdictions which do not have an obscenity requirement must confine their definition of prohibited sexual conduct to those activities which cause harm to the child. The harm can be physical, emotional or psychological. Though broad, this approach is supported by the state's legitimate interest in protecting its children, and can thereby withstand constitutional attack.

Although the prohibited conduct varies from state to state, it generally includes the following: sexual intercourse (genital-oral, genital-genital, anal-genital, oral-anal), bestiality, masturbation, sexual sado-masochism, lewd exhibition of the genitals or pubic area, exretory functions performed in a lewd manner and, in a few jurisdictions, nudity.

In varying combinations, these new laws impose criminal liability on all participants in the child pornography industry.

The federal law and 47 state laws impose criminal liability on the producer of the visual material depicting children in sexually explicit conduct. The federal law and 38 states make criminal the role of coercer or enticer of a child to be photographed in child pornography. In addition, the federal law and 35 states penalize distributors of such material. Finally, criminal sanctions in 16 states are imposed on the parent or legal guardian who allows his child to be sexually exploited as the subject of child pornography. Of all jurisdictions, only Arkansas, California, Connecticut, Illinois, Maine, New Jersey, New York, Oklahoma, Texas, West Virginia and Wisconsin and the federal law penalize all four classes of offenders.

Statutes in 19 jurisdictions prohibit sexual exploitation of persons under 18 years old. Four statutes protect those under 17 years. The federal law and 17 state jurisdictions pertain to children under 16. Two states protect children who are under 16 or who appear prepubescent. Colorado protects children who are under 18 or appear prepubescent. In Indiana, a child who is or who appears to be under 16 is protected. Massachusetts protects only those children who are below age 18 and unmarried. In Michigan, the child must be under 18 and unemancipated. Kentucky provides for two age classifications (16 and 18) and varies punishment according to the age of the victim.

The majority of states characterize obscene material as visual, printed or performed live. Sixteen states consider only printed and visual matter. Colorado, Nevada and Oregon do not include printed material in their provisions. North Dakota treats only live performances whereas South Carolina covers nothing but visual obscene material.

The effect of such state laws is generally to make activities which are misdemeanors under the dissemination statutes felonies when the sexual exploitation of minors is involved. In some states, there is a sliding scale of punishment depending on the age of the child. Section 2252(b) of 18 USC doubles the felony penalty for federal obscenity dissemination violations whenever disseminated materials depict children engaged in sexually explicit conduct.

Unlike the exhibition and distribution legislation, sexual exploitation statutes hold parents liable as a subset of the coercer group. Custody and control of their children does not include the right to engage in a variety of sexual activities in the home. Nor is there a right to privacy if photographs of family sexual conduct are taken with parental approval.

## TABLE 9A

## CONTRIBUTING TO THE DELINQUENCY OF A MINOR STATUTES

| STATE | DESCRIPTION OF DEFENDANT | | DESCRIPTION OF JUVENILE | | | |
|---|---|---|---|---|---|---|
| | ANY PERSON | PERSON OVER 18 | CHILD/ MINOR* | UNDER 18 | UNDER 17 | UNDER 16 |
| Alabama | X | | | X | | |
| Alaska | X | | | X | | |
| Arizona | X | | | X | | |
| Arkansas | X | | | X | | |
| California | X | | Note a | or X | | |
| Colorado | X | | | X | | |
| Connecticut | X | | | | | X |
| Delaware | X | | | X | | |
| District of Columbia | X | | X | | | |
| Florida | X | | | X | | |
| Georgia | X | | Note b | | | |
| Guam | | X | X | | | |
| Hawaii | Law repealed | | | | | |
| Idaho | X | | Note c | | | |
| Illinois | Note d | | | X | | |
| Indiana | | X | | X | | |
| Iowa | X | | | X | | |
| Kansas | X | | | X | | |

* See Table 3A for age of majority for each jurisdiction.

NOTES:

a) any ward or dependent child of the juvenile court.
b) a delinquent or neglected child.
c) a delinquent child.
d) any parent, legal guardian or person having custody of the child.
e) parent.

TABLE 9A

CONTRIBUTING TO THE DELINQUENCY OF A MINOR STATUTES

| STATE | DESCRIPTION OF DEFENDANT | | DESCRIPTION OF JUVENILE | | | |
|---|---|---|---|---|---|---|
| | ANY PERSON | PERSON OVER 18 | CHILD/ MINOR | UNDER 18 | UNDER 17 | UNDER 16 |
| Kentucky | X | | | | | X |
| Louisiana | | Over 17 | | | X | |
| Maine | Law repealed * | | | | | X |
| Maryland | | Adult | X | | | |
| Massachusetts | X | | X | | | |
| Michigan | X | | | | X | |
| Minnesota | X | | X | | | |
| Mississippi | Parent | | X | | | |
| Missouri | X | | | | X | |
| Montana | Law repealed * | | X | | | |
| Nebraska | X | | | X | | |
| Nevada | X | | | X | | |
| New Hampshire | Person having control | | X | | | |
| New Jersey | Law repealed * | | | | | X |
| New Mexico | X | | | X | | |
| New York | Law repealed * | | | X | | |
| North Carolina | X | | | | | X |
| North Dakota | X | | X | | | |

* Contributing to the Delinquency Law repealed and replaced by Endangering the Welfare of a Child Law.

## TABLE 9A

## CONTRIBUTING TO THE DELINQUENCY OF A MINOR STATUTES

| STATE | DESCRIPTION OF DEFENDANT | | | DESCRIPTION OF JUVENILE | | | |
|---|---|---|---|---|---|---|---|
| | ANY PERSON | PERSON OVER 18 | | CHILD/ MINOR | UNDER 18 | UNDER 17 | UNDER 16 |
| Ohio | X | | | X | | | |
| Oklahoma | X | | | X | | | |
| Oregon | X | X | | | X | | |
| Pennsylvania | | | | | X | | |
| Puerto Rico | X | | | X | | | |
| Rhode Island | X | | | | | | X |
| South Carolina | | X | | X | | | |
| South Dakota | X | | | X | | | |
| Tennessee | | Adult | | X | | | |
| Texas | X | | | | | X | |
| Utah | | X | | X | | | |
| Vermont | X | | | | | | X |
| Virgin Islands | | | | | | | |
| Virginia | X | | | | X | | |
| Washington | X | | | X | | | |
| West Virginia | X | | | X | | | |
| Wisconsin | | X | | X | | | |
| Wyoming | X | | | | X | | |

## EXPLANATION OF WORDS AND SYMBOLS

## TABLE 9B

## EXHIBITION, DISTRIBUTION OF OBSCENE MATERIAL TO MINORS

### Class of Offenders

| | |
|---|---|
| Exhibitor: | One who exhibits, displays, directs, promotes the production of obscene material or who performs or participates in its production. |
| Distributor: | One who sells, loans, gives, distributes, transports, receives obscene material with knowledge that it depicts minor engaged in sexually explicit conduct. |
| Obscene Material: | P - Printed (e.g., books, magazines).<br>V - Visual (e.g., film, photograph, slides, negatives).<br>L - Live performance (e.g., play, show, exhibit). |

### Defenses

Either explicitly designated or implied by placing burden on minor to establish otherwise in prima facie case:

1. Alleged offender made a reasonable and honest mistake as to the minor's age after a bona fide attempt to ascertain minority. (The error may have been induced by minor who falsifies identification.)

2. Minor is accompanied by adult, who claims to be parent or legal guardian and who consents to minor's exposure to obscene material.

3. Warning on material that it was not to be exhibited or distributed to minors.

### Exemptions

1. Alleged offender is parent or legal guardian of minor.

2. Individual is a teacher, scientist, librarian, clergyman, physician, judge, or a bona fide representative of a school, college, university, public library, museum, art gallery, acting within the scope of his or her official duties in exhibiting or distributing such material.

3. Defendant is a ticket taker, usher, projectionist, etc., acting within the scope of his or her employment in exhibiting or distributing obscene material and as such has no financial stake in venture.

## TABLE 9B

## EXHIBITION, DISTRIBUTION OF OBSCENE MATERIAL TO MINORS

| STATE | MINOR'S AGE | CLASS OF OFFENDERS | | OBSCENE MATERIAL | | | DEFENSES | | | EXEMPTIONS | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | EXHIBITOR | DISTRIBUTOR | P | V | L | 1 | 2 | 3 | 1 | 2 | 3 |
| Alabama | Less than 18<br>Unmarried | X | X | X | X | X | X | X | | X | X | |
| Alaska | | | | | | | | | | | | |
| Arizona | Less than 18 | X | X | X | X | | X | | | | | |
| Arkansas | Less than 17 | X | X | X | X | | X | | | | | |
| California | Less than 18 | X | X | X | X | | | X | | X | X | |
| Colorado | | | | | | | | | | | | |
| Connecticut | Less than 17 | X | X | X | X | X | X | | | | | |
| Delaware | Less than 17<br>(Minor)<br>Less than 18<br>(Known Minor) | X | X | X | X | X | X | X | | | X | |
| District of Columbia | | | | | | | | | | | | |
| Florida | Less than 17 | X | X | X | X | X | X | | | | | |
| Georgia | Less than 18<br>Unmarried | X | X | X | X | | X | X | | | X | |
| Guam | | | | | | | | | | | | |
| Hawaii | Less than 16 | X | X | X | X | X | X | | | X | X | |
| Idaho | Less than 18 | X | X | X | X | X | X | X | | X | X | |
| Illinois | Less than 18 | X | X | X | X | | X | | X | X | X | |
| Indiana | Less than 18<br>Unmarried | X | X | X | X | X | X | X | | X | X | X |
| Iowa | Less than 18 | X | X | X | X | | X | X | | | X | |
| Kansas | | X | X | | | | | | | | | |
| Kentucky | Less than 18 | X | X | X | X | | | | | | | |
| Louisiana | Less than 17* | X | X | X | X | | X | | X | | | |
| Maine | Less than 18 | X | X | X | X | | | | | X | X | X |
| Massachusetts | Less than 18* | X | X | X | X | X | X | X | | | X | |
| Michigan | Less than 18 | X | X | X | | | | | | | | |
| | | Note a | | | | | | | | | | |

* Unmarried.

Note a) Statute explicitly mentions that parents may be offenders.

TABLE 9B

## EXHIBITION, DISTRIBUTION OF OBSCENE MATERIAL TO MINORS

| STATE | MINOR'S AGE | CLASS OF OFFENDERS |  | OBSCENE MATERIAL |  |  | DEFENSES |  |  | EXEMPTIONS |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  | EXHIBITOR· | DISTRIBUTOR | P | V | L | 1 | 2 | 3 | 1 | 2 | 3 |
| Minnesota | Less than 18 | X | X | X | X | X | X |  |  | X | X | X |
| Mississippi | Less than 18 | X | X | X | X | X |  |  |  |  |  |  |
| Missouri | Less than 18 | X | X | X | X | X |  |  |  |  |  |  |
| Montana | Less than 18 | X | X | X | X | X |  |  |  |  |  |  |
| Nebraska | Less than 18* | X | X | X | X | X | X |  |  | X | X | X |
| Nevada | Less than 18 | X | X | X | X | X |  |  |  |  | X |  |
| New Hampshire | Less than 18 | X | X | X | X |  | X |  |  |  |  |  |
| New Jersey | Less than 18 | X | X | X | X | X | X |  |  |  |  |  |
| New Mexico | Less than 18* | X | X | X | X | X | X | X |  |  | X |  |
| New York | Less than 17 | X | X | X | X | X | X |  |  |  |  |  |
| North Carolina | Less than 12<br>Less than 16<br>Less than 18<br>Penalty varies | X | X | X | X | X | X | X |  |  | X |  |
| North Dakota | Less than 18 | X | X | X | X | X |  |  |  |  | X |  |
| Ohio | Less than 18 | X | X | X | X |  | X | X |  | X | X |  |
| Oklahoma |  |  |  |  |  |  |  |  |  |  |  |  |
| Oregon | Less than 18<br>Unmarried | X | X | X | X | X | X |  |  | X | X |  |
| Pennsylvania | Less than 17 | X | X | X | X |  |  |  |  | X |  |  |
| Puerto Rico | Less than 16 | X | X | X | X |  |  |  |  |  |  |  |
| Rhode Island | Less than 18 | X | X | X | X |  |  |  |  |  |  |  |
| South Carolina | Less than 16 | X | X | X | X | X | X |  |  |  |  |  |
| South Dakota | Less than 18 | X | X | X | X | X | X | X |  | X | X |  |
| Tennessee | Less than 18 | X | X | X | X | X |  |  |  |  |  |  |

* Unmarried.

## TABLE 9B

## EXHIBITION, DISTRIBUTION OF OBSCENE MATERIAL TO MINORS

| STATE | MINOR'S AGE | CLASS OF OFFENDERS | | OBSCENE MATERIAL | | | DEFENSES | | | EXEMPTIONS | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | EXHIBITOR | DISTRIBUTOR | P | V | L | 1 | 2 | 3 | 1 | 2 | 3 |
| Texas | Less than 17 | X | X | X | X | | | X | | | X | |
| Utah | Less than 18 | X | X | X | X | X | | | | | | |
| Vermont | Less than 18 | X | X | X | X | | X | X | | | X | |
| Virgin Islands | Less than 18 | X | X | X | X | | | | | | | |
| Virginia | Less than 18 | X | X | X | X | X | | | | | X | |
| Washington | Less than 18 | X | X | X | X | | X | X | | | | |
| West Virginia | Less than 18 | X | X | X | X | X | X | | | | | X |
| Wisconsin | Less than 18 | X | | | Note b | | | | | | | |
| Wyoming | | | | | | | | | | | | |

Note b) Only outdoor theater.

## EXPLANATION OF WORDS AND SYMBOLS

## TABLE 9C

## SEXUAL EXPLOITATION OF MINORS

### Class of Offenders

Producer: One who produces, directs, manufactures, issues, publishes, advertises obscene material involving use of minor.

Coercer: One who causes, coerces, entices, induces or allows child to participate in production of obscene material.

Distributor: One who sells, loans, gives, distributes, transports, receives obscene material with knowledge that it depicts minor engaged in sexually explicit conduct.

Parent: Includes legal guardian or persons in loco parentis; penalized for permitting minor to engage in production of obscene material.

### Obscene Material

P - Printed (e.g., books, magazines).
V - Visual (e.g., film, photograph, slide, negatives).
L - Live performance (e.g., play, show, exhibit).

## TABLE 9C

## SEXUAL EXPLOITATION OF MINORS

| STATE | MINOR'S AGE | CLASS OF OFFENDERS |  |  |  | OBSCENE MATERIAL |  |  |
|---|---|---|---|---|---|---|---|---|
|  |  | PRODUCER | COERCER | DISTRIBUTOR | PARENT | P | V | L |
| Alabama | Less than 17 | X |  | X | X | X | X |  |
| Alaska | Less than 16 | X | X |  |  | X | X | X |
| Arizona | Less than 18 | X | X | X |  | X | X |  |
| Arkansas | Less than 16 | X | X | X | X | X | X |  |
| California | Less than 16 | X | X | X | X | X | X | X |
| Colorado | Prepubescent or Less than 18 | X | X | X |  |  | X | X |
| Connecticut | Less than 16 | X | X | X | X | X | X | X |
| Delaware | Less than 18 | X |  | X |  | X | X |  |
| District of Columbia |  |  |  |  |  |  |  |  |
| Florida | Less than 18 | X | X | X |  | X | X | X |
| Georgia | Less than 18 | X |  |  | X | X | X | X |
| Guam |  |  |  |  |  |  |  |  |
| Hawaii | Less than 16 | X |  | X |  | X | X | X |
| Idaho | Less than 18 | X |  |  |  | X | X | X |
| Illinois | Prepubescent or Less than 16 | X | X | X | X | X | X | X |
| Indiana | Is or appears to be less than 16 | X |  | X |  | X | X | X |
| Iowa | Less than 18 | X | X |  |  | X | X |  |
| Kansas | Less than 16 | X | X |  | X | X | X |  |
| Kentucky | Less than 16 or less than 18 Penalty varies | X | X | X |  | X | X | X |
| Louisiana | Less than 17 | X | X | X |  | X | X |  |
| Maine | Less than 16 | X | X | X | X | X | X |  |
| Maryland | Less than 16 | X | X |  |  | X | X | X |
| Massachusetts | Less than 18 Unmarried | X |  | X |  | X | X | X |
| Michigan | Not Emancipated Less than 18 | X | X | X |  | X | X |  |

TABLE 9C

SEXUAL EXPLOITATION OF MINORS

| STATE | MINOR'S AGE | CLASS OF OFFENDERS |  |  |  | OBSCENE MATERIAL |  |  |
|---|---|---|---|---|---|---|---|---|
|  |  | PRODUCER | COERCER | DISTRIBUTOR | PARENT | P | V | L |
| Minnesota | Less than 18 | X | X | X |  | X | X | X |
| Mississippi | Less than 18 | X | X | X |  | X | X |  |
| Missouri | Less than 17 | X | X |  |  | X | X |  |
| Montana | Less than 16 | X | X | X |  | X | X | X |
| Nebraska | Prepubescent or Less than 16 | X |  | X |  | X | X |  |
| Nevada | Less than 18 | X | X |  |  |  | X | X |
| New Hampshire | Less than 18 | X |  | X | X | X | X | X |
| New Jersey | Less than 16 | X | X | X | X | X | X |  |
| New Mexico | Less than 16 | X | X |  |  | X | X | X |
| New York | Less than 16 | X | X | X | X | X | X | X |
| North Carolina | Less than 16 | X | X | X |  | X | X | X |
| North Dakota | Less than 18 | X | X |  |  |  |  | X |
| Ohio | Less that 18 | X | X | X |  | X | X |  |
| Oklahoma | Less than 16 | X | X | X | X | X | X | X |
| Oregon | Less than 16 | X | X | X |  |  | X | X |
| Pennsylvania | Less than 16 | X | X | X |  | X | X |  |
| Puerto Rico |  |  |  |  |  |  |  |  |
| Rhode Island | Less than 18 | X | X | X |  | X | X |  |
| South Carolina | Less than 18 | X |  |  |  |  | X |  |
| South Dakota | Less than 16 | X | X | X |  | X | X |  |
| Tennessee | Less than 18 | X | X | X |  | X | X | X |
| Texas | Less than 17 | X | X | X | X | X | X | X |
| Utah | Less than 18 | X | X |  | X | X | X | X |
| Vermont |  |  |  |  |  |  |  |  |
| Virgin Islands |  |  |  |  |  |  |  |  |
| Virginia | Less than 18 | X | X | X |  | X | X | X |
| Washington |  |  |  |  |  |  |  |  |
| West Virginia | Less than 18 | X | X | X | X | X | X | X |
| Wisconsin | Less than 18 | X | X | X | X | X | X |  |
| Wyoming |  |  |  |  |  |  |  |  |

TABLE 9D

STATUTORY RAPE

| STATE | VICTIM AGE UNDER | OFFENDER AGE OVER | PENALTY DECREASED IF | PENALTY INCREASED IF | VICTIM MUST BE FEMALE | NOTES ON DESCRIPTION OR LABEL OF CONDUCT PROHIBITED |
|---|---|---|---|---|---|---|
| Alabama | 12 | -- | | | | |
| | 16 (over 12) | 16 | | | | |
| Alaska | 16 | 16 | Offender under 19 | | | |
| Arizona | 18 | | | Victim is under 15 | | Sexual conduct with person not spouse |
| Arkansas | 11 | -- | | | | Carnal abuse |
| | 14 (over 11) | 18 | | | | Carnal abuse |
| | 14 | 18 | | | | Felony intimate sexual abuse |
| California | 18 | | | | | Unlawful sexual intercourse |
| Colorado | 15 | 4 years older | | | | Sexual assault |
| Connecticut | 15 | | | | | Sexual assault |
| Delaware | 16 | | | | | |
| District of Columbia | 16 | | | | | |
| Florida | 11 | | | If offender is over 18 penalty is increased to death or life imprisonment | | |
| Georgia | 14 | | | | | |
| Guam | 16 | | | | | |
| Hawaii | | | | | | |
| Idaho | 18 | Note a | | | | |
| Illinois | 16 | 17 | Note b | | X | |
| Indiana | 12<br>16 (over 12) | <br>16 | | | | Child molesting: sexual intercourse or deviant sexual conduct |

NOTES:

a) No conviction for offender under 14 unless physical ability is proved as an independent fact beyond a reasonable doubt.

b) Offense is contributing to sexual delinquency when person 14 yrs. or over performs or submits to sexual contact with person under 18.

## TABLE 9D

## STATUTORY RAPE

| STATE | VICTIM AGE UNDER | OFFENDER AGE OVER | PENALTY DECREASED IF | PENALTY INCREASED IF | VICTIM MUST BE FEMALE | NOTES ON DESCRIPTION OR LABEL OF CONDUCT PROHIBITED |
|---|---|---|---|---|---|---|
| Iowa | 14<br>15 (over14) | 6 yrs. older | | Victim under 12 | | |
| Kansas | 16 | | | | | Indecent liberties: sexual intercourse and indecent sexual conduct |
| Kentucky | 12<br>16 | | Offender less than 5 yrs. older | | | Felony |
| Louisiana | 17 | 17 | | | | |
| Maine | 14<br>16 | 3 yrs. older<br>5 yrs. older | | | | Unlawful sexual contact<br>Sexual abuse |
| Maryland | 16 | 4 yrs. older | | Victim under 14 | | |
| Massachusetts | 16 | | | | | Sexual intercourse or unnatural intercourse |
| Michigan | 16 | | Sexual contact, not penetration | Victim under 13 | | |
| Minnesota | Note c | Note c | | | | Note c |
| Mississippi | 12<br>18 | --<br>-- | | Offender over 18 increases to death or life sentence | X | |
| Missouri | 15<br>16 | --<br>17 | | Victim under 14 | | |

Note c)

| Victim: | Offender: | Label: |
|---|---|---|
| Under 13 | 36 mos. older | 1st degree sexual conduct |
| Under 13 | 36 mos. older | contact - 2nd degree criminal conduct |
| Under 13 | Less than 36 mos. older. | 3rd degree sexual conduct |
| 13-16 | 48 mos. older | 1st degree |
| 13-16 | 48 mos. older | contact = 2nd degree |
| 13-16 | Less than 48 mos. older | 3rd degree |

TABLE 9D

## STATUTORY RAPE

| STATE | VICTIM AGE UNDER | OFFENDER AGE OVER | PENALTY DECREASED IF | PENALTY INCREASED IF | VICTIM MUST BE FEMALE | NOTES ON DESCRIPTION OR LAB. OF CONDUCT PROHIBITED |
|---|---|---|---|---|---|---|
| Montana | 16 | 3 years older | | | | |
| Nebraska | 18 | 18 | | | | |
| Nevada | 16 | 18 | | If offender is over 21 | | |
| New Hampshire | 16 | | | | | Includes contact |
| New Jersey | 13 | -- | | | | Aggravated sexual assault |
| | 16 (over 13) | 4 yrs. older | | | | Sexual intercourse & contact |
| New Mexico | 18 | | | Victim under 13 | | |
| New York | 11 | -- | If offender is 16-21 is sexual misconduct | | X | 1st degree rape |
| | 14 | 18 | | | X | 2nd degree rape |
| | 17 | | | | X | 3rd degree rape |
| North Carolina | 12 | 4 years older | | | X | |
| North Dakota | Minor | Adult | | Victim under 15 increase to felony | | |
| Ohio | 13 | | | | | 1st degree rape |
| | 15 (over) 13 | | If offender is less than 4 yrs. older | | | Corruption of minor |
| Oklahoma | 14 | 18 | | | X | |
| Oregon | 12 | | Penalties vary with age of offender and degree | | X | 1st degree rape |
| | 14 | | | | X | 2nd degree rape |
| | 16 | | | | X | 3rd degree |
| | Minor | | | | | Sexual contact |
| | 18 | 18 | | | | Contact to sexual delinquency |
| Pennsylvania | 14 | 18 | | | X | |
| Puerto Rico | 14 | | | | | |
| Rhode Island | 16 | | | | | |

TABLE 9D

STATUTORY RAPE

| STATE | VICTIM AGE UNDER | OFFENDER AGE OVER | PENALTY DECREASED IF | PENALTY INCREASED IF | VICTIM MUST BE FEMALE | NOTES ON DESCRIPTION OR LABEL OF CONDUCT PROHIBITED |
|---|---|---|---|---|---|---|
| South Carolina | 14 | 3 yrs. older | | If victim under 11 | | Criminal sexual conduct |
| South Dakota | 16<br>15 | 15 | | If offender is more than 3 yrs. older is felony | X | |
| Tennessee | 16 | 18 | | If victim is under 13 | X | |
| Texas | 17 | | | | X | |
| Utah | 16 | | Offender less than 3 yrs. older | Victim less than 14 | | |
| Vermont | 16 | | | | X | |
| Virginia | 15 | | Offender is a minor | Victim under 13 | X | |
| Washington | 16 | 2 yrs. older | | Victim under 14 - more if victim under 11 | | |
| West Virginia | 11<br>16 | 14<br>4 yrs. older | | | | Intercourse and sexual contact |
| Wisconsin | 18 | | | Victim under 12 | | Sexual assault |
| Wyoming | 16 | 4 yrs. older | | Victim under 12 | | |

## TREND SUMMARY

### Chapter 10: Financial Aid, Social Services and Community Aid

Although numerous statutory changes were made in the 70's broadening the protection of children from abuse, neglect and exploitation and expanding their procedural safeguards in certain types of court actions, these contributions to their general welfare did not materially alter their right to or the provision of financial aid and/or social services.

Changes in the Social Security Act during the 70's did modify financial aid benefit structures by expanding the age of eligible children as members of a family unit depending upon their school status, and Title XX of that Act governing the provision of social services was implemented.

Generally speaking, however, these changes were directed at and were intended for the improvement of aid and services to family units. In sum, children benefited from these provisions as members of family units, not as individuals with separable legal standing supportive of individual claims.

Our changing views regarding the concept of "mature minor," the accelerating rate at which adolescents runaway, become mothers or otherwise assert their physical independence and other statutory trends effecting the legal status of adolescents all call attention to the issue of the age at which adolescents may become eligible for the receipt of financial aid and social services in their own right.

The complexity of this issue can be illustrated in applying it to the dilemma of teenage mothers, specifically to the conflict between emancipation of minors because of pregnancy and the receipt of financial aid provided by the federal-state AFDC payments program. The dichotomy lies in the fact that many emancipation statutes, as they relate to pregnancy, are basically limited to giving the child emancipation only as to the issue of pregnancy and the related issue of abortion. The matter becomes less clear-cut after the adolescent has decided not to abort the pregnancy and to "have the baby." For example, most jurisdictions prohibit a minor from owning or possessing money because they are not sui juris, that is not of age. The minor, under normal circumstances, could not receive money because she is under age, i.e., not mature enough to handle her own finances. In addition, if she is to sign documents with AFDC, are those contracts legally enforceable since many laws state that a minor cannot enter into a binding contract. Please note, however, that this assistance may fall under necessaries and many states do permit binding contracts to be entered into for necessaries. A corrollary question is does a minor who receives AFDC have to turn it over to her parent or parents and is there an obligation upon the states to pay those funds to the adolescent as opposed to the adolescent's parents.

Part and parcel of this whole problem is the role and obligation of the parents vis-à-vis the pregnant adolescent. Does the obligation of correct parental care and control extend to seeing that the child of the pregnant adolescent is delivered properly and properly raised and maintained? Is there some further duty or duties upon the parent of the pregnant adolescent to provide "standards to which the adolescent is accustomed" for purposes of proper care of the child? Stated another way, is there a negative implication that if the adolescent is pregnant that the standard to which such minor has become accustomed prior to pregnancy now somehow alters itself.

Many of the matters surfaced in examining the situation of pregnant adolescents apply to other categories of adolescents as well. Generally speaking, the basic concept of emancipation is in serious need of examination as it currently impinges upon and governs the rights of adolescents to the receipt of financial aid and social services.

The need to clarify the concept of emancipation is crucial and is essentially the responsibility of the states. Currently, there is no detectable movement in state legislatures toward grappling with this matter.

In all likelihood, the stimulus for such movement will derive from significant court tests in the years ahead. Currently, the U.S. Supreme Court has before it a case testing the constitutionality of the Hyde Amendment which limits the payment of federal welfare funds for abortions. It is likely that the outcome of this case, and others that surely will follow, will have a broad impact upon defining the terms and conditions for the provision of federal funds for financial aid and social services and at what point adolescents will be determined eligible to receive them in their own right.

## CHAPTER 10

## FINANCIAL AID, SOCIAL SERVICES AND COMMUNITY AID

Families have the primary burden for care and maintenance of their children. There are a variety of public programs that help families meet this responsibility, by providing them with either financial aid and/or social services. These programs might also be of aid to older children who are moving out of their dependent positions with their families, but who still need community support in their efforts to become self-supporting and self-regulating. The federal government sets guidelines for many of these programs; provides a portion of the funds to run them, and encourages states, by withholding funds from noncomplying programs, to meet certain standards in setting up and administering the programs. In this chapter is (1) a survey of federally aided state social service programs, (2) a closer look at State Child Abuse and Substance Abuse programs, and (3) a brief discussion of some federal benefit programs that affect children.

### 1. Social Service Programs

Title XX[1] was added to the Social Security Act in 1975. It authorizes the payment to states of funds for social service programs. The programs are to be directed at needy families or individuals. The purposes of the programs are to be:

> ...(1) achieving or maintaining economic self-support to prevent, reduce or eliminate dependency, (2) achieving or maintaining self-support, including reduction or prevention of dependency, (3) preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests or preserving, rehabilitating, or reuniting families, (4) preventing or reducing inappropriate institutional care by providing for community-based care, or (5) securing referral or admission for institutional care when other forms are not appropriate, or providing services to individuals in institutions.[2]

A number of services for eligible children and youth are provided by the states under Title XX. To be eligible to receive services, a child must usually be (a) part of a family that meets maximum income requirements (some percentage of median income, from 42.5 to 115%), (b) part of a family that is eligible for AFDC,[3] Social Security or Medicaid, or (c) in need of protective services because he is needy, abused or exploited.

---

[1] 42 USC Sec. 1396 et seq., Implementary Regulations: 45 CFR Sec. 228.

[2] 42 USC Sec. 1397.

[3] See pp. 348, *infra* for discussion of AFDC.

Table 10A summarizes many of the services directed to children in each state.[4] "Adoption" includes recruitment and study of adoptive homes, court services for termination of parental rights, counseling and preparation of the child for adoption, supervision of placement. All but seven states provide Title XX adoption services. Thirteen states additionally provide special subsidized adoption services programs to work with families adopting hard-to-place children.

"Foster family care," "group home care," "institutional care," "therapeutic residential care" and "emergency shelter care" are all categories of substitute or out-of-own-home care for children. All states but Kansas, Missouri and Pennsylvania provide services programs for foster care. These include recruitment, selection and counseling of foster parents; counseling of natural parent; involvement in the placement; and special needs payments. Forty states provide group home care which is of help to older children on their way to independence or for children with special needs. Forty-two states have institutional care services and therapeutic residential services. Services include intensive counseling, recreation, group home programs, and some medical care. All states provide emergency shelter care to protect children who are unable to remain at home. Protective services, such as care and counseling, are available in all states for children who are in danger of being intentionally or negligently physically harmed, mentally harmed, or sexually abused.

Day treatment services are directed at delinquent, mentally retarded, emotionally disturbed, physically disabled, and physically or mentally handicapped youth. The purposes of day treatment are:

> ...to relieve family stress by removal of the child from the home for a portion of the day; to reduce possibility of institutionalization of the child; to promote deinstitutionalization by providing community alternatives and to provide a therapeutic milieu for the child/youth's development.[5]

Thirty states provide these intensive care services:

"Youth Services," available in some form in all states, rehabilitative or prevention programs for delinquent or potentially delinquent youth. Title XX services might include programs intended to divert children from the juvenile justice system.

"Services to Expectant Parents" includes financial assistance, living arrangements, health care, legal services, counseling and child care education. Thirty-two states provide these programs.

---

[4] Information for this table was taken from Kilgore and Salmon, Technical Notes: Summaries and Characteristics of States' Title XX Social Services Plans for Fiscal Year 1979, U.S. Dept. HEW, June, 1979, pp. 211-268.

[5] Note 4, *supra* at p. 228.

"Early Periodic Screening, Diagnosis and Testing for Children" is a program of services aimed at getting children into the health care system during preschool years. Twenty-two states provide this service.

"Home-Based Services" include temporary homemakers for parents unable to care for home and child, instruction or training to make temporary homemaker services unnecessary, and home health care services. Every state has some type of home-based service.

Other categories of services are self explanatory. Refer to Table 10A.

### 2. Detailed Look at Two Programs Which Were Developed in Response to Federal Legislation

a. Alcohol and Drug Abuse Program. Existing state programs on Alcohol and Drug, or Substance Abuse were developed in response to federal legislation of the early 1970's: the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Program[6] and the Drug Abuse Prevention and Treatment Act.[7]

This legislation expressed a policy statement on the nature of substance abuse. It also created a nationwide program of education, treatment and research to be adopted by the states. Congress intended to encourage the individual states to be vigorous in combatting alcoholism and drug addiction.

In these substance abuse acts, Congress made the following declarations:

(1) Drug and alcohol abuse is recognized as an illness which severely impairs individual and societal health and welfare.

(2) Traditional methods of treatment favored isolating the addict from the community. Yet neither criminal nor institutional confinement has been successful in curing the disease. Substance abuse is on the increase; especially among the youth.

(3) New forms of treatment should concentrate on the cooperative efforts of the addict and the community to understand the illness and to effect a cure.

(4) Federal, state and local governments are to coordinate resources for the establishment of education, research and treatment programs in public and private facilities. Certain rehabilitation strategies should be youth-oriented.

(5) The Federal government shall stimulate local program implementation by providing federal funds to supplement state and local monies. Grants

---

[6] 42 USCA Sec. 4541.

[7] 21 USCA Sec. 1101.

are to be apportioned according to the jurisdiction's relative population and financial need. To qualify as a recipient, a state must submit a suitable program of prevention, treatment and rehabilitation. Local public and private facilities are to be certified pursuant to requisite standards of patient care. Treatment services are to be periodically monitored and improved whenever possible.

The majority of states readily responded to the federal guidelines by developing alcohol and drug abuse programs which met federal guidelines. Twenty-eight states developed drug abuse programs; 29 states developed alcohol abuse programs; and 23 states developed combined substance abuse programs. (See Table 10B for details.)

In each state, a central agency is charged with supervising the planning and operation of treatment programs throughout the state. A primary duty of this agency is to set uniform standards of patient care in accordance with federal policy: (1) Encouraging, whenever possible, outpatient rather than inpatient treatment and voluntary rather than involuntary commitment; and (2) the preparation of individualized treatment plans coupled with continuous follow-up care once the individual has left the facility.

This policy is reflected in the type and range of available services in each jurisdiction. In 30 states, the addict can benefit from diagnostic services and outpatient or inpatient therapy on a voluntary, involuntary or emergency basis. Other jurisdictions provide some of these services. Typically more services are offered to alcohol abusers than to drug abusers. Forty states provide emergency services to alcohol abusers; only 23 provide such services for drug abusers. Forty-one states provide diagnostic services for alcohol abusers; 31 for drug abusers. Statutes also require non-medical services. Twelve states require substance abuse education in the schools. All but one jurisdiction provide education at the centers. Rehabilitation programs in 30 jurisdictions offer vocational training to "reformed addicts" to facilitate their "return" to the community. In 23 states, addicts may be charged for treatment and other services according to thei ability to pay; all other jurisdictions are no fee.

Under most of the statutes all services available to adults are also available to children. Several jurisdictions provide additional services uniquely designed for the needs of the child substance abuser. Commonly provided services are:

(1) "Drop in" or "Rap" centers.

(2) Hot Lines--24 hour telephone answering service.

(3) Free clinics.

(4) Emergency or voluntary commitment without the parent's consent if the child is the requisite age.

(5) Counseling sessions and seminars with family members (see Utah).

In 33 jurisdictions children are able to consent to their own treatment. Consent is authorized under either general statutory provisions which allow minors to such treatment for substance abuse or under statutory provisions contained in the legislation which sets up the abuse program for the state.

"The Alcohol and Drug Abuse Educational Programs and Activities Act" (21 USCA sec. 1001) addressed the value of local education in deterring substance abuse. States, in turn, have promoted extensive educational campaigns throughout their jurisdictions. Two audiences have been consistently targeted, local schools and the community at large. In many states, schools have developed special curricula on substance abuse prevention for use in grades K-12, as well as courses of instruction for teachers and administrators. Both faculty and students learn the early signs of addiction and the types of treatment locally available. Local schools, police departments, service organizations and various private groups cooperate with state agencies in disseminating information on the dangers of substance abuse. This material speaks to all members of the community.

### 3. Child Abuse Prevention and Protection

For the last decade the problem of child abuse, and how to deal with both the abusers and the abused, has frustrated legislators. Increased awareness of the magnitude of the problem and concern for the victims has resulted in legislation in every jurisdiction. The federal government provided both guidelines and incentives in the Child Abuse Prevention and Protection Act.[8] The Act provides for federal funding for those states with mandatory reporting laws and with procedures that meet the requirements of the Act.

The general policy sought to be served by the legislative provisions is protection of the child. In an effort to facilitate that protection, legislative schemes provide for increased reporting of abuse and neglect, thorough investigation of reported cases, and other services necessary for the child's health and welfare. The legislation also reflects a concern for the family and general public awareness of the problem. The definition of abuse under the federal statute is:

> ...physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child under the age of eighteen, or the age specified by the child protection law of the State in question, by a person who is responsible for the child's welfare under circumstances which indicate that the child's welfare is harmed or threatened, as determined in accordance with regulations prescribed by the Secretary.[9]

Reportable conditions vary from state to state. Generally the definition of child abuse encompasses both physical and mental injury and sexual abuse.

---

[8] 42 USCA Sec. 5101-5106.

[9] 42 USCA Sec. 5102.

Neglect, a factor in the vast majority of statutes, is usually defined as a failure to maintain the child with proper food, shelter, clothing and required education when possible for a parent to do so. Threatened harm or circumstances or conditions which subject the child to harm are also included in the list of reportable conditions. Several states specifically provide a "religious belief" exception from the definition of child abuse. For example, the Arkansas statute states:

> Provided, nothing in this Act [secs. 42-807 - 42-818] shall be construed to imply that a child who is being furnished with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious domination by a duly accredited practitioner thereof, is for this reason alone a neglected or dependent child within the meaning of this Act.[10]

The legislative schemes protect children under the age of 18 and occasionally include mentally retarded or developmentally disabled adults.

Reporting requirements uniformly apply to those individuals who come into close enough contact with the child to detect abuse. Among the categories of people usually listed are health care professionals (e.g., doctors, nurses, dentists, etc.), teachers and school administrators, and law enforcement officers. Although the bodies receiving the reports often include law enforcement agencies, in those states where reports are to be directed to social service departments a law enforcement officer or agency can serve as a link in the reporting process.

Individuals required to report are protected from any civil or criminal liability resulting from a report made in good faith. Several states also provide similar protection when an individual not required to report makes a good faith report. Each state also maintains a central registry to compile information about abuse and aid in investigation and treatment.

Table 10C is not intended to be an exhaustive list of either reportable conditions or types of relief available. Each state has developed a system for dealing with the problems associated with child abuse and neglect. While the procedures for providing services vary from state to state, each state provides those services essential for the child's health and welfare, including instituting the proper judicial proceedings.

## 4. Federal Benefit Programs

The Social Security Act provides for federally-aided public assistance programs. Aid to Families with Dependent Children (AFDC) is the assistance program that most directly affects children. It is also the most rapidly growing program. In 1973, payments were being made on behalf of one in every eight children under

---

[10] _Ariz. Stat. Ann._, Sec. 42-807 (Supp. 1979).

18 in the United States.[11] Money is not paid directly to the child. The plan was conceived to enable mothers who were widowed or divorced to remain in their homes and care for their children. Payments now are made to designated relatives caring for children who have been deprived of the support of a parent because of death, continual absence from the home or physical or mental incapacity of the parent. Some states add that the deprivation of support may be due to unemployment of the parent. Funds are also available to foster parents for children who have been removed from the homes of caretaker relatives.

AFDC provides monthly maintenance payments, social services and other support for eligible families. The amount of payment varies according to the number of "dependent" children in a household. Section 606a of 42 USC defines dependent child as one who is in financial need because deprived of parental support and is "(A) under 18 or (B) under the age of 21 and regularly attending high school, college or university or regularly attending a course of vocational or technical training designed to fit him for gainful employment."

State participation in assistance programs is voluntary. Once a state elects to participate it must comply with the federal statutory conditions if it is to receive federal reimbursement of a percentage of the expenditures. The federal statute does not indicate the extent to which states can establish policies which further restrict eligibility. An Illinois statute which limited the 18 to 20 year old category of recipients to those who were in high school or vocational training (excluding college and university students) was considered by the U.S. Supreme Court in 1971, in Townsend v. Swank.[12] A state has the option of extending aid to children in the 18-20 student group or restricting aid to those under 18. The Court held, however, that if a state extended aid to any in the 18-20 year old group it must extend it to all eligible under 606a; a state could not impose restriction which narrowed the category.

Table 10D sets out the age criteria in state eligibility statutes. Thirty-five states track the language of 606a. Thirteen states do not extend assistance to those over 18. Five states attach collateral conditions; some of which include the disapproved language of the Illinois statute. Presumably these collateral conditions on eligibility are invalid;[13] after Townsend states would not follow them even though their statutes remain unamended.

One other eligibility question might be of interest to young mothers: Does "dependent-child" coverage extend to unborn children? Since 1941 HEW has matched payments for state programs which extended coverage to mothers of unborn children when "the fact of pregnancy has been confirmed by medical diagnosis."[14] In 1975 the U.S. Supreme Court held in Burns v. Alcala[15] that Congress had not intended AFDC coverage for the unborn. States did not have to extend coverage to the unborn. If states did choose to extend coverage they could obtain matching funds under the HEW regulation. Table 10E shows which states currently extend coverage to mothers of unborn children.

---

[11] L. Platky, Aid to Families with Dependent Children: An Overview, October, 1977.

[12] 404 US 282 (1971).

[13] See, e.g., Lawson v. Brown, 349 F. Supp. 203 (W.D. Va 1972).

AFDC recipients (and in some states, those eligible for AFDC) are automatically eligible for other benefits. Recipients are eligible for Medicare benefits[16] and for free rehabilitative social services[17] including child care counseling on employment opportunities, and family planning services.[18]

There are a number of other federally funded or subsidized programs directed at children. Not all of them require AFDC or other categorical eligibility. It is not possible to cover all programs and all requirements here; the reader is encouraged to seek further information. One program, or series of programs, that are of special interest to older children deserves a further comment--federal education subsidies.

The federal government administers a massive program of aid to post-secondary education students. There are five major programs that have to some extent reshaped the obligations of parents to provide financial resources for their child's education: Basic Education Opportunity Grants, Support for Education Opportunity Grants, College Work Study, National Direct Student Loans and Guaranteed Student Loans. All but the last program have financial needs requirements which vary depending upon whether the student is self-supporting or is dependent (lives with or will live with parents, was or will be listed as exemption, will receive $600 or more support from parents).[19] The operating guidelines are the same for all five programs; refer to U.S. Department HEW, Student's Guide to Five Federal Financial Aid Programs, 1978-79, for further information.

---

[14] 45 C.F.R., Sec. 233.90(c)(2)(ii).

[15] 420 US 575 (1975).

[16] 42 USC, Sec. 1396(a)(1)(A), 45 CFRS 602(a)(19)(9).

[17] 45 CFR 602(a)(19)(9).

[18] 45 CFR 602(a)(15).

[19] 45 CRF, Sec. 190.31-39 (1977).

## EXPLANATION OF SYMBOLS

## TABLE 10A

## TITLE XX SOCIAL SERVICES PROGRAMS

A. Adoption
B. Subsidized Adoption
C. Foster Family Care
D. Special Services in Foster Family Care
E. Group Home Care
F. Institutional Care
G. Therapeutic Residential Treatment
H. Protective Services and Emergency Shelter Care
I. Day Treatment
J. Youth Services
K. Services to Expectant Parents
L. EPSDT Referral
M. Interstate/Intercounty Placement
N. Camping
O. Recreation
P. Family Counseling
Q. Day Care Services
R. Family Planning Services
S. Home Based Services
T. Services to Alcohol and Drug Abusers

## TABLE 10A

## TITLE XX SOCIAL SERVICES PROGRAMS

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Alabama |  |  |  | X | X | X | X | X | X | X | X | X | X |  |  | X | X | X | X |  |
| Alaska | X |  | X |  |  |  | X | X |  | X | X |  |  |  |  |  | X | X | X | X |
| Arizona | X |  | X | X | X | X | X | X | X | X |  |  |  | X | X | X | X | X | X | X |
| Arkansas | X |  | X | X | X | X | X | X | X | X | X |  |  | X | X | X | X | X | X | X |
| California |  |  | X | X |  | X | X | X | X | X | X |  |  |  | X | X | X | X | X | X |
| Colorado | X | X | X | X | X | X | X | X |  | X | X | X | X |  |  | X | X | X | X | X |
| Connecticut | X | X | X | X | X | X | X | X | X | X | X |  |  | X | X | X | X | X | X | X |
| Delaware | X |  | X |  | X |  |  | X | X | X | X |  |  |  |  | X | X | X | X |  |
| District of Columbia | X | X | X |  |  | X |  | X |  | X | X | X |  |  |  | X | X | X | X | X |
| Florida |  |  | X | X | X | X | X | X |  | X |  |  |  |  |  | X | X | X | X | X |
| Georgia | X |  | X | X | X | X |  | X | X | X | X | X | X |  |  | X | X | X | X |  |
| Guam |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Hawaii |  |  | X | X | X | X | X | X | X | X | X | X |  |  |  | X | X | X | X | X |
| Idaho | X | X | X | X | X | X | X | X |  | X | X | X |  |  |  | X | X | X | X | X |
| Illinois | X |  | X | X |  | X | X | X | X | X | X | X |  | X |  | X | X | X | X | X |
| Indiana | X |  | X |  | X |  | X | X | X | X |  |  |  | X | X | X | X | X | X | X |
| Iowa | X | X | X |  | X | X | X | X |  | X |  |  | X |  |  | X | X | X | X | X |
| Kansas |  |  | X |  |  |  | X | X |  | X |  | X |  |  | X | X | X | X | X |  |
| Kentucky | X | X | X | X | X | X | X | X | X | X | X |  | X |  | X | X | X | X | X | X |
| Louisiana | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Maine | X |  | X | X | X | X | X | X | X | X | X |  |  | X | X | X | X | X | X | X |
| Maryland | X |  | X | X | X | X | X | X | X | X | X |  |  | X | X | X | X | X | X | X |
| Massachusetts | X |  | X | X | X | X | X | X | X | X | X |  |  | X | X | X | X | X | X | X |
| Michigan | X |  | X |  | X |  |  | X |  | X |  |  |  |  |  | X | X | X | X | X |
| Minnesota | X |  | X |  | X |  | X | X | X | X |  |  | X | X | X | X | X | X | X | X |
| Mississippi | X |  | X | X | X | X | X | X | X | X | X | X |  | X | X | X | X | X | X | X |
| Missouri | X |  |  |  |  | X |  | X |  | X |  |  |  | X | X | X | X | X | X | X |

Information for this table was taken from Technical Notes Summaries and Characteristics of States' Title XX Social Services Plans for Fiscal Year 1979, U.S. Dept. of HEW, 1979, pp. 62, 77, 134, 153, 214-215.

## TABLE 10A

## TITLE XX SOCIAL SERVICES PROGRAMS

| STATE | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Montana | X |  | X |  | X | X | X | X | X | X | X | X |  |  |  | X | X | X | X |  |
| Nebraska | X |  | X |  |  | X |  | X | X | X |  |  |  |  |  | X | X |  | X |  |
| Nevada | X |  | X | X | X | X |  | X |  | X |  | X |  |  | X | X | X | X | X | X |
| New Hampshire | X |  | X |  | X | X | X | X |  | X |  |  |  | X | X | X | X | X | X |  |
| New Jersey | X |  | X |  | X | X | X | X | X |  |  |  |  |  | X | X | X | X | X | X |
| New Mexico | X | X | X |  | X | X | X | X | X | X | X | X | X |  | X | X | X | X | X | X |
| New York | X |  | X | X | X | X | X | X | X | X | X |  |  |  | X | X | X | X | X | X |
| North Carolina | X |  | X | X |  | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| North Dakota | X |  | X | X | X |  | X | X |  | X | X |  | X |  | X | X | X | X | X | X |
| Ohio | X | X | X | X | X | X | X | X | X | X |  |  | X | X | X | X | X | X | X | X |
| Oklahoma | X |  | X |  | X | X |  | X |  | X | X | X | X | X | X | X | X |  | X | X |
| Oregon | X |  | X | X | X | X | X | X |  | X | X |  |  | X |  | X | X | X | X |  |
| Pennsylvania |  |  |  |  |  | X | X | X |  | X |  |  |  | X | X | X | X | X | X | X |
| Puerto Rico |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Rhode Island | X |  | X |  | X | X | X | X |  | X | X | X |  |  |  | X | X | X | X | X |
| South Carolina | X | X | X |  | X | X | X | X | X | X | X |  |  | X | X | X | X | X | X | X |
| South Dakota |  |  | X | X | X | X | X | X | X |  | X |  |  |  | X | X | X | X | X | X |
| Tennessee | X | X | X | X |  | X | X | X |  | X | X |  | X |  |  | X | X | X | X | X |
| Texas | X |  | X |  | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |  |
| Utah | X |  | X |  | X | X | X | X |  | X | X | X |  | X | X | X | X | X | X | X |
| Vermont | X |  | X | X | X |  | X | X |  | X |  |  |  |  |  | X | X | X | X | X |
| Virgin Islands |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Virginia | X |  | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Washington | X | X | X |  | X | X | X | X | X | X | X | X | X |  |  | X | X | X | X | X |
| West Virginia | X | X | X | X | X | X | X | X |  | X | X | X |  | X |  | X | X | X | X | X |
| Wisconsin | X |  | X |  | X | X | X | X | X | X |  | X |  | X | X | X | X | X | X | X |
| Wyoming | X |  | X |  | X |  |  | X |  |  |  |  |  |  |  | X | X | X | X | X |

## EXPLANATION OF SYMBOLS

## TABLE 10B

## DRUG AND ALCOHOL ABUSE PROGRAMS

Treatment Program:

Alcoholism
Drug Addiction
Combined (A & D)

Fee:

Fee to be paid by patient

Commitment:

Voluntary
Involuntary

Specific Services:

EDucation (public and patients)
Outpatient facilities
Inpatient facilities
EMergency care
Vocational rehabilitation
Diagnostic Services

## TABLE 10B

## DRUG AND ALCOHOL ABUSE PROGRAMS

| STATE | TREATMENT PROGRAM |  |  | ADMINISTRATIVE BODY | FEE | COMMITMENT |  | SPECIFIC SERVICES |  |  |  |  |  | CHILD'S CONSENT SUFFICIENT (AT AGE)* | INSTRUCTION IN SCHOOLS REQUIRED IN ACT | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | A | D | C |  |  | V | I | ED | C | I | EM | V | D |  |  |  |
| Alabama |  |  |  |  |  |  |  |  |  |  |  |  |  |  | X |  |
| Alaska | X |  |  | Dept. of Health & | X | X | X | X | X | X | X | X | X |  | X |  |
|  |  | X |  | Social Services |  |  |  | X |  |  |  |  |  |  |  |  |
| Arizona | X |  |  | Dept. of Health |  | X | X |  | X |  | X |  |  |  |  |  |
|  |  | X |  | Services |  |  |  |  |  |  |  |  |  | X (12) |  |  |
| Arkansas |  |  | X | Dept. of Social & Rehabilitation Services |  |  |  | X |  |  |  |  |  |  |  |  |
| California | X |  |  | Health & Welfare | X | X | X | X | X | X | X | X | X | X (12) |  | Note a |
|  |  | X |  | Agency |  | X |  | X | X | X | X | X | X | X (12) |  |  |
| Colorado | X |  |  | Dept. of Alcohol & |  | X | X | X | X | X | X | X | X | X |  |  |
|  |  | X |  | Drug Abuse & Dept. of Health |  |  |  |  |  |  |  |  |  | X |  |  |
| Connecticut | X |  |  | State Alcohol & |  | X | X | X | X | X | X | X | X |  | X |  |
|  |  | X |  | Drug Abuse Council |  | X | X | X | X | X | X |  |  | X | X |  |
| Delaware | X |  |  | Dept. of Health & | X | X | X | X | X | X | X | X | X | X (12) |  | Note b |
|  |  |  |  | Social Services |  | X |  | X | X | X | X | X | X |  |  |  |
| District of Columbia | X |  |  | Dept of Human | X | X | X |  | X | X |  |  | X |  |  |  |
|  |  | X |  | Resources Surgeon General |  | X | X | X | X | X |  | X | X |  |  |  |
| Florida | X |  |  | Dept. of Health & |  | X | X | X | X | X | X |  | X | X | X | Note c |
|  |  | X |  | Rehabilitative Services | X | X | X | X | X | X | X | X | X |  | X |  |

* Child's consent will be valid under either a general drug/alcohol treatment consent statute or under a special consent section in the state statute setting up the substance abuse program. See Table 4D.

NOTES:

a) A narcotic and drug abuse program includes, but is not limited to: (a) Halfway houses...(b) Drop-in centers... (c) Crisis lines...(d) Free clinics (f) Methadone programs.

b) (4) "Date Center" means a drug abuse, treatment and education center, and shall include but not be limited to the following: (d) Drop-in center or "raphouse"...(e) DIAL (Drug Information Action Line) (g) Methadone treatment (5) "Drug Evaluation Team" (DET) (6) "Medical Entry Service" (MES).

c) (3) (a) "Date Center" means a drug abuse treatment and education center, and shall include but not be limited to, the following: (4) A communication center or "raphouse" (5) A hot line.

TABLE 10B

DRUG AND ALCOHOL ABUSE PROGRAMS

| STATE | TREATMENT PROGRAM | | | ADMINISTRATIVE BODY | FEE | COMMITMENT | | SPECIFIC SERVICES | | | | | | CHILD'S CONSENT SUFFICIENT (AT AGE) | INSTRUCTION IN SCHOOLS REQUIRED IN ACT | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A | D | C | | | V | I | ED | O | I | EM | V | D | | | |
| Georgia | X | | | Dept. of Human Resources | X | X | X | X | X | X | X | X | X | X | | Note d |
| | | X | | | | | | X | X | X | | | X | | | |
| Guam | | X | | Guam Memorial Hospital | | | | X | | X | | X | | | | |
| Hawaii | | | X | Dept. of Health | | | | X | | | | | X | X | | |
| Idaho | X | | | Dept. of Health & Welfare. Local Hospitals/MDs | | X | X | X | X | X | X | X | X | | | |
| | | X | | | | X | | X | X | X | | | X | X (16) | | |
| Illinois | X | | | Dept. of Public Health, Dept. of Mental Health & Develop. Disabilities | | X | X | X | X | X | X | X | X | | | |
| | | X | | | | X | | X | X | X | | | X | X (12) | | |
| Indiana | | | X | Dept. of Mental Health | X | X | X | X | X | X | X | X | X | X | | |
| Iowa | | | X | Dept. of Substance Abuse | | X | X | X | X | X | X | | | | | |
| Kansas | X | | | Dept. of Social & Rehabilitative Services | | X | X | X | X | X | X | X | X | | | |
| | | X | | | | | | X | | | | | | X | | |
| Kentucky | X | | | Dept. for Human Resources | X | X | | X | X | X | X | | X | X | X | |
| | | X | | | X | X | X | X | X | X | | | X | X | X | |
| Louisiana | | | X | Dept. of Health & Human Resources | | X | X | X | X | X | X | | | X (Drug) | X | |
| Maine | X | | | Dept. of Health & Welfare | X | X | X | X | X | X | X | X | X | X | | |
| | | X | | | | X | X | | X | X | X | | | X | | |
| Maryland | X | | | Dept. of Health & Mental Hygiene | | X | X | X | X | X | X | X | X | X | X | |
| | | X | | | | X | X | X | X | X | | | X | X | | |

NOTES:

d) Other Services: (4) "Hot Line" (3) Crisis information center - A facility offering group therapy or advice to drug dependent persons, their families or the general community...

TABLE 10B

## DRUG AND ALCOHOL ABUSE PROGRAMS

| STATE | TREATMENT PROGRAM |  |  | ADMINISTRATIVE BODY | FEE | COMMITMENT |  | SPECIFIC SERVICES |  |  |  |  |  | CHILD'S CONSENT SUFFICIENT (AT AGE) | INSTRUCTION IN SCHOOLS REQUIRED IN ACT | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | A | D | C |  |  | V | I | ED | O | I | EM | V | D |  |  |  |
| Massachusetts | X |  |  | Dept. of Public Welfare, Drug Rehabilitation Dept. | X | X | X |  | X | X | X |  | X | Child and Parent |  |  |
|  |  | X |  |  | X |  |  | X | X | X | X |  |  |  |  |  |
| Michigan |  |  | X | Office of Substance Abuse Services |  | X | X | X | X | X | X | X | X | X | X |  |
| Minnesota |  |  | X | Dept. of Public Welfare | X | X | X | X | X | X | X | X | X | X |  |  |
| Mississippi | X |  |  | State Board of Health; State Dept. of Mental Health | X | X | X | X | X | X | X |  | X | X (15) |  |  |
|  |  | X |  |  |  | X | X |  |  |  |  |  |  | X (15) |  |  |
| Missouri |  |  | X | Dept. of Mental Health & Council on Alcohol & Drug Abuse |  | X | X | X | X | X |  |  | X | X (16) |  |  |
| Montana | X |  |  | Dept. of Health |  | X | X | X | X | X | X | X | X | X |  |  |
|  |  | X |  |  |  |  |  | X | X | X |  |  |  | X |  |  |
| Nebraska | X |  |  | Dept. of Public Inst.; Dept. of Health | X |  |  |  |  |  |  |  |  |  |  |  |
|  |  | X |  |  |  |  |  | X |  |  |  |  |  |  |  |  |
| Nevada |  |  | X | Dept. of Human Resources |  | X | X | X |  | X |  |  |  | X (Drug) |  |  |
| New Hampshire |  |  | X | Governor's Office Alcohol & Drug Control & Abuse | X | X | X | X | X | X | X |  |  |  |  |  |
| New Jersey | X |  |  | Dept. of Health |  | X | X | X | X | X | X |  | X |  |  |  |
|  |  | X |  |  |  | X | X | X | X | X | X | X | X | X |  |  |
| New Mexico | X |  |  | Health & Environment Dept. Designated by Governor |  | X |  | X | X | X | X | X | X |  |  |  |
|  |  | X |  |  | X |  |  | X | X | X |  | X | X | X | X |  |
| New York |  |  | X | Division of Alcohol & Substance Abuse |  | X | X | X | X | X | X | X | X |  | X |  |

TABLE 10B

DRUG AND ALCOHOL ABUSE PROGRAMS

| STATE | TREATMENT PROGRAM | | | ADMINISTRATIVE BODY | FEE | COMMITMENT | | SPECIFIC SERVICES | | | | | | CHILD'S CONSENT SUFFICIENT (AT AGE) | INSTRUCTION IN SCHOOLS REQUIRED IN ACT | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A | D | C | | | V | I | ED | O | I | EM | V | D | | | |
| North Carolina | | | X | Mental Health, Mental Retardation & Substance Abuse Authority | | X | X | X | X | X | | | X | X | | |
| North Dakota | | | X | Dept. of Health | | X | X | X | X | X | X | | X | X | | |
| Ohio | X | | | Director of Health & Mental Retardation | X | X | X | X | X | X | X | X | X | | | |
| | | X | | | X | X | X | | X | X | X | | X | X | | |
| Oklahoma | X | | | Alcohol Prevention, Training, Treatment, Rehabilitation Authority | | X | X | X | X | X | X | X | X | X | | |
| | | X | | | | | | X | X | X | | | X | X | X | Note f |
| Oregon | | | X | Mental Health Division & Council on Alcohol & Drug Problems | | X | X | X | X | X | X | X | X | | | |
| Pennsylvania | | | X | Governor's Council on Drug & Alcohol Abuse | X | X | X | X | X | X | X | X | X | X | | |
| Puerto Rico | | | X | Dept. of Addiction Services | | X | X | X | X | | | | X | No | | |
| Rhode Island | X | | | Dept. of Mental Health Retardation & Hospitals, Dept. of Health | | X | X | X | X | X | X | X | X | | | |
| | | X | | | | X | X | X | X | X | | | X | | | |

NOTES:

f) Termination of Drug Rehabilitation & Treatment Authority 7-1-82. Abolition of powers, duties, and functions until 7-1-83.

TABLE 10B

DRUG AND ALCOHOL ABUSE PROGRAMS

| STATE | TREATMENT PROGRAM | | | ADMINISTRATIVE BODY | FEE | COMMITMENT | | SPECIFIC SERVICES | | | | | | CHILD'S CONSENT SUFFICIENT (AT AGE) | INSTRUCTION IN SCHOOLS REQUIRED IN ACT | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A | D | C | | | V | I | ED | O | I | EM | V | D | | | |
| South Carolina | | | X | Dept. of Mental Health | X | X | X | X | X | X | | | X | | X | Note g |
| South Dakota | X | | | Dept. of Health | | X | X | X | X | X | X | X | X | | | |
| | | X | | | | X | X | X | X | X | X | | | | | |
| Tennessee | | | X | Dept. of Mental Health & Mental Retardation | X | X | X | X | X | X | | | X | | | |
| Texas | X | | | Commission of Health; Dept. of Community Affairs | | X | X | X | X | X | X | | | X | | |
| | | X | | | | X | X | X | X | X | X | X | X | X | | |
| Utah | | | X | Dept. of Social Services | X | | | X | X | X | | | | | | Note h |
| Vermont | X | | | Agency of Human Sources; Drug Rehabilitation Commission | | X | X | X | X | X | X | X | X | X (12) | | |
| | | X | | | | X | | X | X | X | | | | X (12) | | |
| Virginia | | | X | Dept. of Mental Health & Mental Retardation | | X | | X | X | X | X | | X | | | |
| Virgin Islands | | | X | Division of Mental Health, Alcohol & Drug Dependency Services | | X | | X | X | X | X | X | X | X (Drug) | | |

NOTES:

g) In addition to combined program, the South Carolina Alcoholic Center under the state's auspices, supervision & control shall provide for the care, prevention and treatment of alcoholism: (1) Voluntary admission only; (2) South Carolina residents only; (3) Patients shall be required to pay if they are able to do so; (4) Excluded from treatment: (a) penal inames; (b) mentally ill patients; (c) drug addicts.

h) Teen drug/alcohol intervention & prevnetion: A "teen drug/alcohol school" means any school established or to be established...which provides an educational interpersonal skill-building experience for juvenile drug/alcohol offenders and their parents or legal guardians.

TABLE 10B

DRUG AND ALCOHOL ABUSE PROGRAMS

| STATE | TREATMENT PROGRAM |  |  | ADMINISTRATIVE BODY | FEE | COMMITMENT |  | SPECIFIC SERVICES |  |  |  |  |  | CHILD'S CONSENT SUFFICIENT (AT AGE) | INSTRUCTION IN SCHOOLS REQUIRED IN ACT | NOTES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | A | D | C |  |  | V | I | ED | O | I | EM | V | D |  |  |  |
| Washington | X |  |  | Dept. of Social & |  | X |  | X | X | X | X | X | X |  |  |  |
|  |  | X |  | Health Services | X | X |  | X | X | X |  |  |  | X |  |  |
| West Virginia |  |  | X | Dept of Mental Health | X | X | X | X | X | X |  |  |  | No | X | Note i |
| Wisconsin |  |  | X | Dept. of Mental Health & Social Services | X | X | X | X | X | X | X |  |  | No |  | Note j |
| Wyoming |  |  | X | Dept. of Health & Social Services |  |  |  | X | X | X |  | X | X |  |  |  |

NOTES:

i) Admission must be applied for by parent or guardian, but it shall be conditioned upon approval of minor if he is 12 or older.

j) Minor and parent must execute application. There is also a provision for court to approve admission if parents will not.

TABLE 10C

CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

| STATE | TYPE OF ABUSE, NEGLECT | | | | | SERVICES | | | | | | | | RESPONSIBLE AGENCY |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | TEMPORARY CUSTODY | | | GUARDIAN AD LITEM/ COUNSEL | | | |
| | PHYSICAL INJURY | MENTAL INJURY | SEXUAL | EXPLOITATION | FAILURE TO PROVIDE MAINTENANCE | TOLL-FREE PHONE NUMBER | INVESTIGATION | LAW ENFORCE-MENT OFFICER | PHYSICIAN, HOSPITAL ADMIN. | SOCIAL SERVICES WORKER | FOR JUDICIAL PROCEEDINGS | GENERALLY | OTHER NEEDED ASSISTANCE | |
| Alabama | X | X | X | | X | | X | X | | X | | X | | Dept. of Pensions & Security<br>Law Enforcement Agency |
| Alaska | X | | X | | X | | X | | | | | | X | Dept. Health & Social Services, Law Enforcement Agency |
| Arizona | X | X | X | | X | | X | | | X | | | X | Dept. Economic Security<br>Law Enforcement Agency |
| Arkansas | X | X | X | | X | | X | X | | X | | X | X | District or State Social Services, Division of State Dept. of Human Services |
| California | X | X | X | | | | X | | | | | | | Law Enforcement Agency<br>County Health or Welfare Dept., Juvenile Probation Department |
| Colorado | | | | | | | X | | | | | | | Law Enforcement Agency<br>District Dept. Social Services |
| Connecticut | X | X | X | | X | | X | X | X | X | X | | X | State Commissioner on Human Resources or representative<br>Law Enforcement Agency |
| Delaware | X | X | X | X | X | | X | | | | | | X | Division of Social Services of Department of Health & Social Services |
| Florida | X | X | X | X | X | | X | X | X | X | X | | | Dept. of Health and Rehabilitative Services |
| Georgia | X | | X | X | X | | X | | | | | | | Child Welfare Agency<br>Law Enforcement Agency |
| Hawaii | X | X | X | | | | X | | | | | | X | Dept. of Social Services and Housing |
| Idaho | X | | X | | X | | X | | | | X | | X | Law Enforcement Agency |

## TABLE 10C

### CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

| STATE | TYPE OF ABUSE, NEGLECT | | | | | SERVICES | | | | | | | | RESPONSIBLE AGENCY |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | TEMPORARY CUSTODY | | | GUARDIAN AD LITEM/ COUNSEL | | | |
| | PHYSICAL INJURY | MENTAL INJURY | SEXUAL ABUSE | EXPLOITATION | FAILURE TO PROVIDE MAINTENANCE | TOLL-FREE PHONE NUMBER | INVESTIGATION | LAW ENFORCEMENT OFFICER | PHYSICIAN, HOSPITAL ADMIN. | SOCIAL SERVICES WORKER | FOR JUDICIAL PROCEEDINGS | GENERALLY | OTHER NEEDED ASSISTANCE | |
| Illinois | X | X | X | | X | | X | | X | | | | | Dept. of Children & Family Services, Law Enforcement Agency |
| Indiana | X | X | X | X | X | | X | | | | X | | X | Local Child Protective Services<br>Law Enforcement Agency |
| Iowa | X | | X | | X | | X | | | | X | | X | Dept. of Social Services |
| Kansas | X | X | X | X | X | | X | X | | | | | | Dist. Court of County in which abuse recognized, Dept. of Social & Rehabilitative Services |
| Kentucky | X | X | X | X | X | | X | X | X | | | | X | Bureau of Social Services<br>Law Enforcement Agency |
| Louisiana | X | X | X | X | X | | X | | | | | | X | Parrish Agency for Protection of Juveniles, Parrish Child Welfare Unit, Law Enforcement Agency |
| Maine | X | X | X | | | | X | | | | | X | X | Dept. Health & Welfare |
| Maryland | X | | X | X | | | X | X | | X | | | X | Local Dept. of Soc. Services<br>Law Enforcement Agency |
| Massachusetts | X | X | X | | X | | X | X | X | X | | | | Dept. of Public Welfare |
| Michigan | X | X | X | | X | | X | | X | | X | | X | Dept. Social Services<br>Law Enforcement Agency |
| Minnesota | X | | X | | X | | X | | | | | | X | Local Welfare Agency<br>Law Enforcement Agency |
| Mississippi | X | X | X | | X | X | X | X | | X | | | X | County Welfare Department |
| Missouri | X | X | X | | X | X | X | X | X | X | X | | X | Division of Family Services |
| Montana | X | X | X | | X | | X | X | | X | X | | X | Dept. of Soc. & Rehab. Services or local affiliate |
| Nebraska | X | X | X | | X | | X | | | | | | X | Dept. of Public Welfare<br>Law Enforcement Agency |

TABLE 10C

## CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

| STATE | TYPE OF ABUSE, NEGLECT | | | | | SERVICES | | | | | | | | RESPONSIBLE AGENCY |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | TEMPORARY CUSTODY | | | GUARDIAN AD LITEM/ COUNSEL | | | |
| | PHYSICAL INJURY | MENTAL INJURY | SEXUAL ABUSE | EXPLOITATION | FAILURE TO PROVIDE MAINTENANCE | TOLL-FREE PHONE NUMBER | INVESTIGATION | LAW ENFORCEMENT OFFICER | PHYSICIAN, HOSPITAL ADMIN. | SOCIAL SERVICES WORKER | FOR JUDICIAL PROCEEDINGS | GENERALLY | OTHER NEEDED ASSISTANCE | |
| Nevada | X | X | X | | X | | X | | | | | | X | |
| New Hampshire | X | X | X | | X | | X | | | | | | | Bureau of Child and Family Services |
| New Jersey | X | X | X | | X | | X | | X | | | | X | Bureau of Children's Services |
| New Mexico | X | X | X | X | X | | X | X | | | | | X | District Attorney, County Social Services Office |
| New York | X | X | X | | X | | X | X | X | X | | | X | Local Child Protective Service |
| North Carolina | X | X | X | | | | X | X | X | X | X | | X | Director of Dept. of Social Services |
| North Dakota | X | X | X | | | | X | | X | | X | | X | Division of Community Services of Social Service Board |
| Ohio | X | X | X | | X | X | X | X | X | | | | X | Children's Services Board of County Department of Welfare<br>Law Enforcement Agency |
| Oklahoma | X | X | X | | X | | X | | | | X | | X | Dept. of Institutions, Social & Rehabilitative Services |
| Oregon | X | | X | | | | X | X | | X | | | X | Local office of Children's Services Division, Law Enforcement Agency |
| Pennsylvania | X | X | X | | | | X | | X | | | | X | Dept. of Public Welfare |
| Rhode Island | X | X | X | | X | X | X | X | X | X | X | | X | Dept. of Soc. & Rehab. Services<br>Law Enforcement Agency |
| South Carolina | X | X | X | | | X | X | X | | | X | | X | County Dept. of Social Services<br>Law Enforcement Agency |
| South Dakota | X | | | | X | | X | X | | | X | | X | State's attorney, Social Services Department |
| Tennessee | X | X | | | X | | X | X | X | X | X | | X | Judge having juvenile jurisdiction, Dept. Human Services<br>Law Enforcement Agency |

## TABLE 10C

## CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

| STATE | TYPE OF ABUSE, NEGLECT | | | | | SERVICES | | | | | | | | RESPONSIBLE AGENCY |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | TEMPORARY CUSTODY | | | GUARDIAN AD LITEM/ COUNSEL | | | |
| | PHYSICAL INJURY | MENTAL INJURY | SEXUAL ABUSE | EXPLOITATION | FAILURE TO PROVIDE MAINTENANCE | TOLL-FREE PHONE NUMBER | INVESTIGATION | LAW ENFORCEMENT OFFICER | PHYSICIAN, HOSPITAL ADMIN. | SOCIAL SERVICES WORKER | FOR JUDICIAL PROCEEDINGS | GENERALLY | OTHER NEEDED ASSISTANCE | |
| Texas | X | X | | | | | X | | | | | | X | State Dept. of Public Welfare<br>Law Enforcement Agency |
| Utah | X | X | X | X | X | | X | | X | | X | | | Division of Family Services of Dept. of Social Service<br>Law Enforcement Agency |
| Vermont | X | | X | | X | | X | | | | | | X | Commissioner of Soc. & Rehabilitative services or representative |
| Virginia | X | X | X | | X | | X | X | X | X | | | X | Local Dept. of Public Welfare of Social Services |
| Washington | X | X | X | | X | | X | X | X | | X | | | Dept. of Social & Health Services, Law Enforcement Agy. |
| West Virginia | X | X | X | | X | | X | | | | X | | X | Dept. of Welfare, Child Protective Services |
| Wisconsin | X | | X | | X | | X | X | | X | X | | X | County Dept. of Public Assistance and Social Services,<br>Law Enforcement Agency |
| Wyoming | X | X | X | | X | | X | | X | | X | X | X | County Dept. of Public Assistance and Social Services,<br>Law Enforcement Agency |
| District of Columbia | X | X | X | | X | | X | X | | X | X | | X | Child Protective Services<br>Division of Dept. Human Resource<br>Law Enforcement Agency |
| Puerto Rico | | | | | | | | | | | | | | |
| Virgin Islands | X | X | X | | X | | X | X | X | | X | | X | Dept. of Public Safety<br>Dept. of Social Welfare |
| Guam | | | | | | | | | | | | | | |

*without court order

TABLE 10D

## STATE PLANS FOR AID TO FAMILIES WITH DEPENDENT CHILDREN AGE AND SCHOOL ATTENDANCE ELIGIBILITY REQUIREMENTS

| STATE | UNDER 18 | UNDER 18, OR UNDER 21 AND REGULARLY ATTENDING SCHOOL OR TRAINING PROGRAM | OTHER* |
|---|---|---|---|
| Alabama | | X | |
| Alaska | X | | |
| Arizona | | X | |
| Arkansas | | X | |
| California | | | Under 21 and unmarried, 18 to 20 must regularly be attending school or training program. If college, must be full-time and have passing grades. |
| Colorado | | X | |
| Connecticut | X | | |
| Delaware | X | | |
| District of Columbia | | X | |
| Florida | | | Under 18 and unmarried |
| Georgia | X | | |
| Guam | | X | |
| Hawaii | | X | |
| Idaho | | X | |
| Illinois | | X | |
| Indiana | X | | |
| Iowa | X | | |
| Kansas | | X | |
| Kentucky | | X | |
| Louisiana | | X | |
| Maine | | X | |
| Maryland | | X | |
| Massachusetts | | X | |
| Michigan | | X | |
| Minnesota | | | Under 19. If 18 but not yet 19 must be regularly attending, full-time, school or training program. |
| Mississippi | X | | |
| Missouri | X | | |
| Montana | | X | |

* See notes in text page ____, concerning state's ability to add restrictions to eligibility criteria.

## TABLE 10D

## STATE PLANS FOR AID TO FAMILIES WITH DEPENDENT CHILDREN AGE AND SCHOOL ATTENDANCE ELIGIBILITY REQUIREMENTS

| STATE | UNDER 18 | UNDER 18, OR UNDER 21 AND REGULARLY ATTENDING SCHOOL OR TRAINING PROGRAM | OTHER |
|---|---|---|---|
| Nebraska | | X | |
| Nevada | | X | |
| New Hampshire | | X | |
| New Jersey | | X | |
| New Mexico | | X | |
| New York | | X | |
| North Carolina | | | Under 21 years. If 16 or 17, must regularly be attending school, full-time or part-time, or unable to attend school due to incapacities (physical or mental); if 18 and under 21, must be regularly attending school or training. |
| North Dakota | | | Under 18 years, if living in a home of a relative by blood, marriage or adoption. Under 21 years if living in a licensed foster home or licensed child-caring or child-pacing institution, if physically or mentally incapacitated, or if regularly attending school or technical training and making satisfactory progress. |
| Ohio | | X | |
| Oklahoma | | X | |
| Oregon | | X | |
| Pennsylvania | | X | |
| Puerto Rico | | X | |
| Rhode Island | | X | |
| South Carolina | | X | |
| South Dakota | | X | |
| Tennessee | X | | |
| Texas | | X | |
| Utah | | X | |
| Vermont | | X | |
| Virgin Islands | | X | |
| Virginia | X | | |
| Washington | X | | |
| West Virginia | | X | |
| Wisconsin | X | | |
| Wyoming | | X | |

## TABLE 10E

## AFDC-PAYMENTS ON BEHALF OF UNBORN CHILD

| STATE | PLAN INCLUDES | DOES NOT INCLUDE | COMMENTS |
|---|---|---|---|
| Alabama | X | | If mother satisfies state residence requirements |
| Alaska | | X | |
| Arizona | | X | |
| Arkansas | | X | |
| California | X | | |
| Colorado | X | | |
| Connecticut | | X | |
| Delaware | | X | |
| District of Columbia | X | | |
| Florida | | X | |
| Georgia | | X | |
| Guam | X | | |
| Hawaii | X | | |
| Idaho | X | | |
| Illinois | | | Note a |
| Indiana | | X | |
| Iowa | | X | |
| Kansas | X | | |
| Kentucky | | X | |
| Louisiana | X | | If mother satisfies state residence requirements |
| Maine | | X | |
| Maryland | X | | |
| Massachusetts | | X | |
| Michigan | | X | |
| Minnesota | | X | |
| Mississippi | | X | |
| Missouri | | X | |

Note a) Requirement shall be inoperative if in conflict with Federal law or regulations governing Federal grants for AFDC.

## TABLE 10E

## AFDC-PAYMENTS ON BEHALF OF UNBORN CHILD

| STATE | PLAN INCLUDES | DOES NOT INCLUDE | COMMENTS |
|---|---|---|---|
| Montana | X | | |
| Nebraska | X | | |
| Nevada | X | | If mother satisfies state residence requirements |
| New Hampshire | | X | |
| New Jersey | | X | |
| New Mexico | X | | |
| New York | X | | |
| North Carolina | | X | |
| North Dakota | X | | |
| Ohio | | X | |
| Oklahoma | | X | |
| Oregon | X | | If mother satisfies state residence requirements |
| Pennsylvania | X | | If mother satisfies state residence requirements |
| Puerto Rico | | X | |
| Rhode Island | X | | |
| South Carolina | | X | |
| South Dakota | | X | |
| Tennessee | | X | |
| Texas | | X | |
| Utah | | X | |
| Vermont | | X | |
| Virgin Islands | | X | |
| Virginia | | X | |
| Washington | X | | If mother satisfies state residence requirements |
| West Virginia | | X | |
| Wisconsin | X | | Payments on behalf of unborn child 6 mos. before birth |
| Wyoming | X | | |

## TREND SUMMARY

### Chapter 11: Other Laws of Interest to Children

Hitchhiking and curfew laws have seen no particular changes in the last five years or more, and while more adolescents have runaway from home during this same period of time there appears to be no legislative trend to enact hitchhiking or curfew laws in those states that do not have such laws currently.

# CHAPTER 11

## OTHER LAWS OF INTEREST TO THE OLDER CHILD

### 1. Curfew

The imposition of curfew derives from an old English custom under which at eight o'clock at night bells were rung throughout the city as a signal that all inhabitants were to disperse from whatever gatherings they were attending, go indoors, rake up their fires and extinguish their lights. The word itself comes from the French, meaning "cover the fire" (couvre feu).

In the United States, curfews are imposed in furtherance of the police power generally held to be vested in the several states. Under that power, the executive branch of the government is empowered to take all measures "necessary for the preservation of public order and tranquility; the promotion of the public health, safety and morals, and the prevention, detection and punishment of crime."[1]

In passing statutes and ordinances restricting access to the streets and public places during certain times by certain people or all people, the states are acting pursuant to their police power. This exercise of police power is most frequently directed at juveniles.

Ten jurisdictions have enacted statutes imposing curfew restrictions on juveniles: Alaska, Hawaii, Illinois, Maryland, Michigan, New Hampshire, Oregon, Vermont, Virgin Islands and Virginia. Kansas, Minnesota and New York impose specific time-and-place restrictions on certain juveniles with respect to the operation of motor vehicles.[2] In jurisdictions without statewide legislation, local governmental units may have enacted curfew ordinances. Local ordinances were not studied.

Alaska's statute is a general enabling act authorizing any city or village to impose curfews for minors in and around the city limits. The statutes in Maryland, New Hampshire, Rhode Island, Vermont and Virginia follow the Alaska approach. Maryland states that the ordinances are to "prohibit the youth of the town from being in streets, lanes, alleys, or public places at unreasonable hours of the night." The Rhode Island statute is directed to police; it allows them to designate certain streets as "curfew streets." New Hampshire, Rhode Island, and Vermont statutes set the appropriate age for regulation at under 16. New Hampshire and Rhode Island allow restrictions of the child's activity after 9 p.m.; Virginia simply states that activity may be prohibited "such times as the governing body deems reasonable."

---

[1] Black's Law Dictionary, 1316 (4th ed. 1968).

[2] See Chapter 5, *supra*.

Hawaii, Illinois and Oregon set a curfew law for the state. In Hawaii, children under 16 years of age are prohibited from going to or remaining on any public street, highway, public place or private place held open to the public after 10 p.m. and before 4 a.m. unless:

1) accompanied by parent, guardian or authorized person, or

2) permitted in writing by a judge of the Family Court, or

3) in case of necessity.

Counties are allowed to enforce superseding ordinances. A second section makes it a crime for a parent to knowingly allow a child to remain out after curfew.

The Illinois law applies to children under 17 between the hours of 12:01 a.m. - 6:00 a.m. Saturday or Sunday, and 11:00 p.m. - 6:00 a.m. the rest of the week. The Oregon law applies to "minors" and covers the hours of 12:00 a.m. - 4:00 a.m. In both states acceptable excuses include engaging in a business where the child is authorized to perform. Both states have provisions which make it a crime for a parent to allow the child to remain out after curfew.

The value, effectiveness and desirability of juvenile curfew laws have been debated since the latter part of the 19th century. Those in favor of curfew laws give mixed reasons for their advocacy of them:

> ...curbing juvenile delinquency...last resort where all other measures have apparently failed...nocturnal juvenile crime must necessarily be eliminated when children are constrained by the threat of legal sanctions to remain at home...juveniles ought to be at home at night...promote family life...necessary police device designed to control nighttime accumulation of juveniles in public places with its attendant risk of mischief.[3]

On the other hand, opponents of curfew laws argue:

> ...peak of juvenile criminal activity is in the early hours of the evening, before the time at which curfews usually go into effect...only a small portion of the juvenile population engages in crime...curfew is a shotgun approach, encroaching on the many who are innocent to control the dissident few...effective enforcement of a general curfew is well beyond the physical capabilities of existing police forces... tendency of a curfew to shift the focus of attention from other more immediate problems of delinquency....[4]

---

[3] Note, Curfew Ordinances and the Control of Nocturnal Juvenile Crime, 107 U. Pa. L. Rev., 67-68 (1958).

[4] *Id.* at p. 68.

What effect do curfew statutes and ordinances have on the problems confronting runaway children and their parents? Is their enforcement effective? Feasible? Do they do more harm than good in preventing runaways from obtaining needed services? Are existing statutes and ordinances implementing that concept up from the days of William the Conqueror into the 20th Century? These questions deserve close examination and realistic responses.

### 2. Hitchhiking

To "hitchhike" has been defined as a slang expression meaning "to make one's way, especially when hiking, by getting rides in automobiles."[5]

Statutes prohibiting hitchhiking have been found in 33 of the jurisdictions studied. The offense of hitchhiking is not one applicable only to minors. The statutes are generally phrased "...no person shall..." or "...any person who...," making them applicable to adults and minors alike. Hitchhiking is always defined as a misdemeanor. The laws of all the jurisdictions include the violation of any state law or municipal ordinance in the conduct for which a child can be adjudicated delinquent.[6] The consequences of being apprehended for hitchhiking could therefore be greater for a child than for an adult.

Most of the statutes relating to hitchhiking are in a standard form prohibiting hitchhiking in the roadway. For example, Arizona's statute reads: "No person shall stand in a roadway for the purpose of soliciting a ride from a driver of any vehicle."[7] The language "standing in a roadway" is taken quite literally to mean standing on the street. Many jurisdictions allow soliciting rides from a sidewalk or from the shoulder of the street. A few states have explicitly stated within their statutes that hitchhiking is allowed from that portion of the highway not used for vehicular traffic.

The most common variation is to prohibit only solicitation of private vehicles. Other variations add other prohibited purposes: soliciting for employment, soliciting for business or soliciting for contributions. Under other police powers, counties, cities and towns would be able to enact more restrictive hitchhiking ordinances within their jurisdictions.

The preoccupation with the position of the hitchhiker and the variations which prohibit being on the street attracting motorists' attention for other reasons, indicate that the state's major concern might be for unimpeded traffic flow and for physical safety at the moment of hitchhiking. The dangers to the child in hitchhiking are greater than fear of collision; they include harm that might come to the child during the ride. Statutes with broader restrictions might offer more protection.

---

[5] Webster's New Collegiate Dictionary, 392 (2nd ed. 1957).

[6] See Chapter 6, supra.

[7] Ariz. Rev. Stat. Ann., Sec. 28-796 (1976).

## TABLE 11A

## HITCHHIKING LAWS

| STATE | PROHIBITED CONDUCT |
|---|---|
| Alabama | Standard wording* |
| Alaska | |
| Arizona | Standard wording |
| Arkansas | Standard wording |
| California | City ordinance may not prohibit hitchhiking from that portion not a part of the roadway. 53 Ops. Atty. Gen. 313, 12-22-70. Statute also allows for search and seizure of one breaking ordinance. |
| Colorado | Standard wording |
| Connecticut | Standard wording was specifically altered in 1976 to allow for hitchhiking on shoulder of road, except limited access highways. |
| Delaware | Standard wording |
| District of Columbia | |
| Florida | Under powers of local authorities, allows enacting ordinances to prohibit hitchhiking on streets, or highways including all state or federal highways within boundaries effective July 1, 1976. |

* Standard wording: "No person shall stand in the roadway for the purpose of soliciting a ride from any vehicle." ALA 32-5-275 (1975)

## TABLE 11A

## HITCHHIKING LAWS

| STATE | PROHIBITED CONDUCT |
|---|---|
| Georgia | |
| Guam | |
| Hawaii | Standard wording, amended to prevent soliciting of business on roadway. |
| Idaho | |
| Illinois | Standard wording* |
| Indiana | Standard wording, amended in 1978 to prohibit soliciting of business or guarding vehicle while parked. |
| Iowa | Prohibits standing in roadway, but allows standing on portion of roadway or highway not ordinarily used for vehicular traffic. |
| Kansas | |

* Standard wording: "No person shall stand in the roadway for the purpose of soliciting a ride from any vehicle." ALA 32-5-275 (1975)

## TABLE 11A

## HITCHHIKING LAWS

| STATE | PROHIBITED CONDUCT |
|---|---|
| Kentucky | |
| Louisiana | Standard wording* |
| Maine | Prohibits hitchhiking on traveled portion of public highway, any limited access highway including Maine turnpike, or any portion of any public highway, during the night, from 1/2 hr. after sunset to 1/2 hr. before sunrise. Specifically allows municipality to include any highway. |
| Maryland | Prohibits soliciting ride or business in roadway. |
| Massachusetts | |
| Michigan | |
| Minnesota | Standard wording, 1974 amended to include soliciting of business. |
| Mississippi | Standard wording |
| Missouri | |

* Standard wording: "No person shall stand in the roadway for the purposes of soliciting a ride from any vehicle." ALA 32-5-275 (1975)

## TABLE 11A

## HITCHHIKING LAWS

| STATE | PROHIBITED CONDUCT |
|---|---|
| Montana | |
| Nebraska | |
| Nevada | Standard wording* |
| New Hampshire | |
| New Jersey | Standard--validity upheld State v. Trotwood 150 N.J. Super, 115, 374A. 2d (1977). "Was reasonable and justifiable intrusion on hitchhiker's right to travel." |
| New Mexico | Standard wording |
| New York | Prohibits soliciting a ride or business--soliciting of ride does not constitute an infraction of hitchhiking if solicitor is standing off roadway proper, on the shoulder, curb or sidewalk. People v. Viking 1972, 76 Misc. 2d 764, 351 N.Y.S. 2d 483. |
| North Carolina | Allows hitchhiking on shoulders of streets and highways. |
| North Dakota | No soliciting rides, business or watching of cars. |
| Ohio | No hitchhiking outside "safety zone". |

* Standard wording: "No person shall stand in the roadway for the purpose of soliciting a ride from any vehicle." ALA 32-5-275 (1975)

# TABLE 11A

## HITCHHIKING LAWS

| STATE | PROHIBITED CONDUCT |
|---|---|
| Oklahoma | Standard wording-also makes it unlawful to enter the Oklahoma Turnpike for the purpose of hitchhiking. |
| Oregon | "A person commits the offense of unlawful hitchhiking if he is on a roadway for the purpose of soliciting a ride." |
| Pennsylvania | |
| Puerto Rico | |
| Rhode Island | Prohibits hitchhiking on any freeway within the state, or on any traveled portion of any other public highway. |
| South Carolina | No soliciting ride, business or watching of cars. |
| South Dakota | |
| Tennessee | Standard wording* |
| Texas | |

* Standard wording: "No person shall stand in the roadway for the purpose of soliciting a ride from any vehicle." ALA 32-5-275 (1975)

## TABLE 11A

## HITCHHIKING LAWS

| STATE | PROHIBITED CONDUCT |
|---|---|
| Utah | |
| Vermont | |
| Virgin Islands | |
| Virginia | "Not to stand in roadway for purpose of soliciting a ride." |
| Washington | |
| West Virginia | Standard wording* |
| Wisconsin | Standard wording |
| Wyoming | Standard wording |

* Standard wording: "No person shall stand in the roadway for the purpose of soliciting a ride from any vehicle." ALA 32-5-275 (1975)

## CHAPTER 12

# AN ASSESSMENT OF MAJOR GOVERNMENTAL INITIATIVES FOR ADOLESCENTS IN THE 70's

## State Legislative and Court Initiatives

Although the adolescent continues to be the subject of intense concern and debate among the American public, little headway was made in the 70's toward relieving the numerous problems that make the pathway to adulthood so arduous for so many of them.

To the outside observer this disparity between high level concern and low level action must seem a curiosity in a society that takes great pride in its pragmatic heritage.

Historically, however, this has consistently been the common lot of adolescents in the United States. The American public and its policy makers have consistently shown themselves responsive to tales of the plight of flesh and blood individual adolescents and to the needs of all children as a global entity, but seldom have they heeded the separable needs of adolescents themselves, other than those involving problematic behavior. The pattern of public activity in the last years of the 70's as it affected adolescents should be understood within this context.

Put kindly, state legislatures were not hotbeds of innovation. Those major statutory changes that did occur in the 70's were largely reactive in nature, designed to bring state law into compliance with federal mandates. Changes that improved the protection of children from abuse and neglect and that deinstitutionalized services for status offenders are prominent illustrations of reactive legislative action.

Other state actions affecting program services for adolescents resulted from reactive responses to U.S. Supreme Court rulings and federal executive directives that altered the requirement of prior parental approval as a condition for receipt of services involving VD, birth control, abortion, adoption, and drug abuse by adolescents.

Finally, the domain of determining the age at which adolescents may assume the responsibilities and privileges of adulthood is largely or solely within the discretion of state legislatures. In the aggregate, state legislatures sent mixed messages to adolescents during the 70's. For example, some lowered the age of consent for engaging in sexual relations while others raised the age at which alcoholic beverages could be purchased.

Generally speaking, the type and degree of legislative change that occurred in the 70's was not overwhelmingly responsive to the degree of public concern about and the altering life circumstances of adolescents.

Child labor laws went virtually untouched in the 70's in spite of the facts that the hours during which adolescents are available for work, and the nature of employment opportunities and working conditions changed materially. For example, numerous adolescents now complete a full school day by noon leaving much of what is traditionally defined as the "normal school day" open for employment. Again, the burgeoning fast food industry has created employment opportunities for youth during these and other odd hours that are essentially non-hazardous. Nonetheless, many youth who have taken advantage of these opportunities may be technically in violation of state laws.

Again, although pregnant teenagers now have a right to decide on the matter of abortion, many find that they do not necessarily have the right to receive abortion services. Adolescents not eligible for any sort of financial aid payments, for example, may be refused services due to inability to pay. If an adolescent's parents are also opposed to abortion, the adolescent may well reason that the right to decide on the matter is, indeed, a hollow right.

Although numerous other illustrations could be added, those given serve to point out material changes in life circumstances that are being felt by adolescents and some ways in which law makers and judges have been reacting to them. Increasingly, adolescents are finding it necessary to assume the prerogatives of adulthood in finding employment, managing pregnancies, and establishing independent residences, among other things, in the absence of statutory authority and/or programmatic services supportive of their decisions. Indeed, adolescents who assert adult prerogatives frequently hazard the application of existing laws that may label them as being illegally employed, sexually promiscuous, incorrigible and so on.

As a society we have paid lip service to the idea that children are growing up faster than ever, but state legislatures have been reluctant to match this observation with statutory changes in the 70's. Rather, there seems to be a fear that such changes would be "permissive" resulting in an erosion of our national character and the moral fiber of youth. As a group, adolescents must increasingly struggle with and exercise adult prerogatives but, upon doing so, they are commonly dealt with like children.

The erratic behavior and confused actions of adolescents that result are predicatable, if not wholly understandable.

Indeed, these hallmarks of adolescent behavior may have their genesis as much in our ambivalent handling of adolescents as they do in the presumed innate maturational stresses that accompany transition from childhood to adulthood.

At the heart of the matter from a policy and programmatic viewpoint are the key concepts of "emancipation" and "mature minor." By and large, state legislatures in the 70's deferred to the courts and left to them the struggle to redefine these concepts in light of the adolescent's changing life circumstances.

The problems inherent in this development are three-fold. First, the meaning of these terms is left open to the interpretation of individual judges resulting in a plethora of sometimes conflicting definitions. Second, the creation of a common definition or standard drawn from an accumulated body of judicial opinion is an exceedingly slow process that may grind on for years before common agreement is reached. Finally, placing the burden on the courts forces adolescents to seek redress and guidance through the courts which they frequently are unable to do because they are unknowledgeable and lack financial resources, or because legal support services are not available to them.

Although this report did not deal in depth with case law, it does provide sufficient evidence to conclude that this is the situation to which many adolescents are subjected today. Thus, while one adolescent may be ruled partially or wholly emancipated for purposes of independent living in one jurisdiction, his counterpart in similar circumstances may be determined dependent and sent to a foster home in another. While a pregnant 14 year old may be determined a mature minor relative to rendering a decision on abortion in one jurisdiction, a 16 year old in similar circumstances may not be so determined in another.

The courts may continue to play a vital part in interpreting standards and tailoring them to the individualized needs of adolescents, however, the inaction of state legislatures relative to the concepts of "emancipation" and "mature minor" during the 70's has created a serious imbalance by placing the burden for creating standards as well as interpreting them squarely upon the courts.

Because of the frequently idiosyncratic nature of judicial opinions and the slow cumulative process by which common standards are developed, the courts standing alone do not have the capacity to match the swiftly changing needs and circumstances of adolescents as a group. The failure of state legislatures to grapple meaningfully with the issues of when is a child old enough to legally act as an adult has contributed substantially to the development of this state of affairs and has widened the gap between the guidance and support adolescents need and what they can expect to receive from governmental sources.

## Federal Program Initiatives

The turmoil of the 60's brought with it a phenomenal growth in public demand upon the federal government to increase its leadership role in the resolution of longstanding national social and economic problems. The 70's were a time of "settling in," a time in which these demands took on the milder character of expectations.

Many of the federal program initiatives in the 70's reflected this shift in public mood in that they involved modifications of the innovations of the 60's rather than wholly new and fresh approaches. Major federal program initiatives intended to directly improve the lot of children that reflected this trend in public mood included the creation of Title XX of the Social Security Act which was designed to alter the structure of social services and federal financial support for their delivery and the 1978 amendments to the Elementary and Secondary Education Act.

A number of other major federal program initiatives in the 70's for children signaled somewhat more distinct departures from past practices. Included here are initiatives intended to affect child protection, child welfare services, juvenile justice, education and youth employment. Some of these initiatives have been enacted into law while the merits of others are still being debated by Congress.

Before briefly examining each of these major initiatives it is important to establish two points.

First, federal initiatives commonly consist of the invention of laws authorizing programs, the provision of funding support, and the stipulation of regulations and penalties governing program implementation by states and localities. Frequently, states and localities are given a voice in tailoring programs and setting priorities according to local needs and rarely are penalties invoked when the exercise of such discretion results in non-compliance with federal regulations. As a consequence, wide variations occur within and between states and localities in how federal program initiatives are in fact implemented.

This point bears on the second point that most federal initiatives in the 70's were shaped to impact the lot of the total class of children eligible according to the criteria of the various initiatives. Among the few major federal initiatives targeted specifically for adolescents and youth were those dealing with juvenile justice reform and youth employment. This is important because when initiatives are targeted to improve the lot of children as a class, it is essentially left to the discretion of state and local officials to determine the extent to which adolescents will share in each program's benefits.

A case can be made upon examining federal program initiatives in the 70's that adolescents as a group were frequently a forgotten minority and that state and local special interest groups effectively utilized the greater public appeal of the needs of younger children to direct federal program benefits disproportionately toward younger age groups.

## I. Social Service Initiatives

Title XX of the Social Security Act. Since its inception in the middle 70's Title XX has been providing between 2.5 and 2.9 billion dollars a year federal financial support for the delivery of social services to families, children and other individuals. Title XX allows each state to adopt its own plan and priorities for social services so long as they conform with the broad goals of the legislation. On a national basis, in 1979, about 2.8 percent of all funds were designated for youth services, for the most part meaning services for institutionalized youth. Very few other services specifically designated for adolescents were evidenced in state Title XX plans.[1]

A comparison between 1978 and 1979 Title XX state plans did indicate a significant growth in state expenditures nationally for child protective services, a growth rate in fact of 38.6 percent.[2] However, nationally 78.8 percent of all substantiated reports of child abuse and neglect during 1978 involved child victims under the age of 13,[3] indicating perhaps the proportional level of effort spent by states in protecting younger vs older children as it expanded this area of service delivery to children.

---

[1] Gloria Kilgore and Gabriel Salmon, Technical Notes: Summaries and Characteristics of States' Title XX Social Services Plans for Fiscal Year 1979, DHEW, Office of the Assistant Secretary for Planning and Evaluation, June 15, 1979, pp. 252-260.

At the same time, of approximately 1.8 million children receiving social services nationally in 1977, about 500,000 were in out-of-home placements, and of this latter number about 40 percent were age 11 or older. This percentage figure has remained almost constant over the last 20 years.[4]

While these figures present an admittedly very incomplete picture of Title XX services to children, they do nonetheless suggest that adolescents may have received less than their fair share of preventive and protective services and more than their fair share of out-of-home residential care services during the 70's.

P.L. 93-247 as Amended: The Child Abuse and Neglect Prevention and Treatment Act of 1974. Unlike Title XX, this act was not intended as a funding source for on-going state and local service programs for children, but rather as a stimulus for the improvement of such programs. As such, since 1974 approximately 19 million dollars have been provided annually to sponsor research, demonstration programs, service improvements and innovations including better state legislation and reporting systems, and the like. This act has, by and large, met its intended purposes of increasing public awareness about and public reporting of the occurrence of child abuse and neglect. During the early years of this legislation attention was almost exclusively directed toward addressing the problems of younger children. However, since 1977 when a new program targeted at the issue of child sexual abuse was launched by the National Center on Child Abuse and Neglect, which administers the act, an increasing share of available funding has been directed toward the problems of adolescents.

H.R. 3434: Child Welfare Reform (popular title). This bill, now before Congress, essentially aims to modify the rules and requirements governing state expenditures for children's services provided by Titles IV-A and IV-B of the Social Security Act.

Although there are numerous technical provisions, the basic intent of this bill is to require states to implement improved tracking and information systems for children in out-of-home residential care, thereby affording them a semblance of due process, and to emphasize the development of preventive services for children and families that would reduce the need for out-of-home care. Certain financial penalties are built into the bill that apply to states that do not meet these mandates within 3 years of the enactment of the legislation.

---

[2] Ibid, p. 190.

[3] Annual Report, 1978. National Analysis of Official Child Neglect and Abuse Reporting (Englewood, Colorado: American Humane, November, 1979), p. 28, Table 18.

[4] Ann W. Shyne and Anita G. Schroeder, National Study of Social Services to Children and Their Families (Rockville, Md.: Westat, Inc., August, 1978), pp. 114ff.

Again, although there is much to be said regarding the potential beneficial impact of this bill, the bill contains no provisions that designate services to adolescents or that set aside proportionate funding shares targeted to serving this group of children. Such matters are left to the discretion of the states in meeting their goals and priorities within their required annual state child welfare plans.

P.L. 95-608: The Indian Child Welfare Act of 1978. This act is intended to improve the lot of all children defined as Native Americans according to criteria in the act. There are no provisions for differential approaches and/or services for older as distinct from younger children. The act, administered by the Bureau of Indian Affairs of the U.S. Department of the Interior, has 3 principal parts dealing with guidelines and minimal standards for custody proceedings involving Indian children in state courts, recognition of tribal courts as courts of competent jurisdiction in Indian child welfare matters, and, provision for appropriations for services to strengthen Indian families both on and off reservations.

The general intent of this federal initiative appears to be to return a significant proportion of the control of family matters to the tribe and the family thereby eliminating past practices that have had the effect of breaking families apart.

To date, although progress has been made toward effecting the transfer and coordination of authority between state and tribal courts, no federal funds have been forthcoming to enable Tribal Councils to implement supportive programs for Indian families and children as provided in the act.

## II. Health Initiatives

Selective advances were made in the 70's relative to the rights of adolescents to obtain certain health related services. As discussed at length in Chapter 4 of this report, however, these advances primarily resulted from U.S. Supreme Court decisions rather than from efforts initiated by the legislative and/or executive branches of the federal government.

It is also interesting to note that these advances center on health-related matters arising as an outcome of adolescent sexual encounters. What adolescents "won" through this aggregate of court decisions is the right to seek health-related services without prior parental consent concerning VD, pregnancy, birth control services and information, and abortion. What they did not "win" was the uniform assurance that such services would be provided upon demand by the public in the absence of their ability to pay for them.

Continuing public ambivalence seems to be reflected in these halfway measures as does the sentiment of public willingness to deal with adolescents as a separate group only when adolescents are exhibiting what is deemed to be problematic behavior.

## III. Education Initiatives

P.L. 96-88: The Department of Education Act of 1979 (popular title). This initiative created a separate Department of Education and a cabinet post for its Secretary. While many people, particularly in the educational community, are hopeful that this development will mean greater future emphasis upon and higher priorities accorded to public educational programs, only time will tell. Some implications do exist for the role of education in proposed youth employment initiatives as discussed later in this chapter.

Title I: The Elementary and Secondary Education Act, as amended 1978. Although this act has a number of titles and technical specifications, of most interest in this report is Title I, popularly referred to as the Compensatory Education Program. Title I is the largest program of federal aid to elementary and secondary education, providing about 2.5 billion dollars annually for programs involving roughly 5.6 million children in 14,000 school districts (9 out of 10 in the U.S.). Programmatically, Title I aims to provide compensatory education and supportive services (eye, dental, medical, etc.) to reduce learning barriers and deficiencies among educationally deprived or disadvantaged children.

Although some adolescents no doubt share in this program's benefits by virtue of their fit within the total class of eligible children, there is little reference in the act, other than distinguishing elementary and secondary educational levels, to specific services mandated for this age group.

The federal-state-local partnership in the management of this program takes the form of local school district priority setting and program design for the expenditure of funds, within the broad guidelines and regulations of the act itself.

In the absence of precise statistics to the contrary, the considerably discretion accorded local officials coupled with the prevailing educational notion that the first 6 grades are crucial pose a question as to whether adolescents are currently receiving a fair share of the benefits of this program.[5]

P.L. 94-149: Education for All Handicapped Children Act of 1975. This act, as administered by the Bureau for Education of the Handicapped, mandates the extension of educational opportunities and services to all handicapped children. While confusion continues to exist around interpretations of some basic provisions in the act, the act does not require that all handicapped children receive education within existing public schools, rather it requires that all handicapped children receive a public education consistent with their capacities for learning. Nearly 1 billion dollars yearly is presently being provided to implement this goal throughout the nation.

Again, local school district discretion is allowed in priority setting and program design and it is not currently disçernable whether handicapped adolescents are receiving their fair share of program benefits. Critics of the program have expressed fears that rather than enhancing the educational experience of handicapped children, the program all too often is being used to reinforce prevailing EMR and ability tracking approaches that tend to consign children to second class status in school programs.

---

[5] Educational Law Bulletin, No. 4, June, 1979, p. 1.

The tradition of local control in public educational matters is perhaps one of the most widely supported traditions in our society. It is strongly reflected in these federal program initiatives and the recent U.S. Supreme Court decision popularly referred to as the "Spanking in Schools" decision. Under the condition of strong local control and given the public's greater receptivity to meeting the educational needs of young children, it is unlikely that a fair share of federal educational program initiatives in the 70's was directed to the needs of adolescents.

It also bears note that numerous states continue to retain statutes that exempt handicapped children from compulsory education, in spite of the intended impact of this initiative.

## IV. Juvenile Justice

P.L. 93-415: The Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This act is one of a very small number of federal program initiatives launched during the 70's specifically for the benefit of adolescents. The act is principally administered by the Office of Juvenile Justice and Delinquency Prevention and provides 100 million dollars annually for such purposes as research, innovative program demonstrations, grants to states for purposes of implementing the provisions of the act and for operation of the Runaway Youth Program.

In general, the intent of the act is to prohibit the institutionalization of status offenders and to place tight conditions upon their placement in detention. In the latter regard, size of facility (bed capacity), separateness from delinquents, and maximum time a child may be held are among the standards--in addition to prohibiting institutionalization--that a state must implement by statute to qualify for funds to develop alternative community services for status offenders.

By the end of the 70's all but 4 states had statutorily prohibited the institutionalization of status offenders; however, federal-state debate continues to rage over the nature and implementation of standards governing detention.

The Law Enforcement Assistance Administration (LEAA) has cited recent national survey research results that show a 7 percent drop in utilization of public residential facilities and an equivalent rise in the use of private residential facilities as an indication that the program is working. According to the LEAA's interpretation, these changes were largely the result of the deinstitutionalization of status offenders and the increased placement of such children in small open residential environments consistent with the requirements of the act.[6]

Critics of this initiative have complained that it has effectively eliminated juvenile court options for handling children brought before them as truants, incorrigibles, sexually promiscuous, loiterers, runaways (i.e., status offenders) and the like, forcing them to make "either/or" decisions; that is, either let them go or charge them as delinquents.

Other complaints focus on the point that federal funding is inadequate to the task of developing alternative services at the magnitude needed to relieve the courts of this either/or dilemma. Recent evaluations of the impact of this federal initiative at the state level suggest that these complaints should be taken seriously.[7]

Some new programs are currently being started that provide indications of a new emphasis upon preventive approaches within the over all effort funded by the act. A number of youth advocacy projects and another group of alternative education for youth projects are being launched with the intended overall purpose of finding ways to correct problems being experienced by youth within the context and resources of local communities as a means for reducing the need for juvenile court intervention, school suspension and other disciplinary alternatives.

The Runaway Youth Act (popular title). This program initiative is in fact Title III of the Juvenile Justice and Delinquency Prevention Act, as amended. It is treated separately partly because it is administered separately by the Bureau for Youth Development in the Department of Health and Human Services and partly because the programs funded by it through its annual appropriation of about 12.5 million dollars are somewhat distinctive in character.

The Runaway Youth Program currently supports the operation of shelters and related services for runaway youth in approximately 165 localities throughout the nation.

Additionally, this program supports the nationwide operation of a toll free telephone line (800-621-4000) as a service to runaway youth who wish, anonymously or otherwise, to communicate with their parents, relatives or guardians.

Local runaway shelters and related services operate generally on a "walk in" basis and respond to any young person who defines himself as in need, not just those with prior court adjudications. While technically this suggests that the service is "universal," that is, available to all children on the run, critics have questioned whether the present network is adequately serving rural areas and minority population groups.[8]

---

[6] Findings from the "Advanced Report on the 1977 Census of Private Juvenile Facilities," and the "Children-in-Custody: Advance Report on the 1977 Census of Public Juvenile Facilities," conducted by the Bureau of the Census for LEAA, as cited in the LEAA Newsletter, 8(10), November, 1979, p. 10.

[7] See, for example: Impacts of the First Year of the 1977 Juvenile Code Revision, prepared by the Virginia Department of Corrections, Division of Program Development and Evaluation, October, 1978, Mimeo. Esp. pp. 2-11.

H.R. 10: Civil Rights for Institutionalized Persons. This bill, presently before Congress, proposes to permit the federal government to sue to protect the rights of prisoners and other persons, including children, held in state institutions. This initiative would empower the United States Attorney General to act on behalf of residents in jeopardy and whose rights are thereby imperiled in such facilities.

Although the act extends such protections to children as well as adults, only time will tell, presuming the bill's enactment into law, where the Department of Justice will place its priorities.

## V. Employment Initiatives

Title IV: Comprehensive Employment and Training Act (CETA), as amended 1978. Title IV incorporates much of the programming funded by the Youth Employment and Demonstration Projects Act of 1977 (P.L. 95-93) and provides for a total of 2.4 billion dollars for fiscal 1980 to support the following youth employment and training programs:[9]

1. Youth Incentive Entitlement Pilot Projects (YIEPP): Title IV-A1. YIEPP serves eligible youth, age 16-19, who are in designated entitlement areas who are willing to return to school to complete their educations by providing them with part-time employment during the school year and full-time during the summers. As of 1978, this program was operational in 17 communities around the country.

2. Youth Community Conservation and Improvement Projects (YCCIP): Title IV-A2. YCCIP works to develop vocational potential among eligible youth, age 16-19, by providing unemployed youth with work in community planned projects of tangible benefit to their communities. The program is not open to youth who dropout of school to obtain work within the program.

3. Youth Employment and Training Programs (YETP): Title IV-A3. YETP aims to enhance job prospects for eligible youth, age 14-21, who have the severest problems in entering the labor market by authorizing a variety of year-round employment and training activities.

---

[8] See, for example, commentary in: Legal Response: Child Advocacy and Protection, 1(14), Dec./Jan., 1980, p. 7.

[9] Summaries of CETA Youth Employment Programs were drawn from the following sources: The 1979 Employment and Training Report of the President, esp. pp. 169-197; U.S. Department of Labor, Program Fact Sheet, April, 1979; and the County Employment Reporter, 8(1), February, 1979, whole issue.

4. The Job Corp: Title IV-B. This program, funded at 296 million dollars in 1979, maintains 74 residential centers in 33 states, Washington, D.C. and Puerto Rico that provide basic education, vocational training, counseling, health care and other services to disadvantaged youth. About 27,000 enrollees were served in 1978 and internal program evaluations assert that 93 percent were placed in jobs, schools, other training or the military as a result.

5. Summer Youth Employment Program (SYEP): Title IV-C. This program provides economically disadvantaged youth, age 14-21, who are both in and out of school with full-time (average: 26 hours weekly, usually for 9 weeks) employment and training opportunities during the summer months. Internal program assessments indicate about 1,000,000 youth directly benefited from the program in 1978, and that an additional 1,200,000 similar opportunities were provided by funds from other CETA titles and the combined efforts of other federal Departments and the private sector. The funding level of this program for 1979 was 740.2 million dollars.

6. Youth Adult Conservation Corps (YACC): Title VIII. YACC provides youth, age 16-23, who are out of school and unemployed but capable of working with experience in various occupational skills through work on conservation and other projects on federal and non-federal lands and waters. About 25,500 enrollees were served in 1979 supported by a program expenditure of 216.4 million dollars. The program is administered by tripartite agreement between the Departments of Labor, Agriculture and Interior.

Taken as a whole, this program was far and away the largest federal initiative for adolescents and youth mounted in the 70's. Understandably, a program of this size and scope has its critics. Among the more strongly voiced complaints are those that address frequently burdensome and costly administrative entanglements, the lack of program sensitivity to the swiftly changing unemployment cycles experienced by young people, and a less than desirable level of involvement of the private employment sector in program development and expansion. In short, while current programs engage some adolescents and youth temporarily, many such experiences become holding actions or deadened involvements that do not accomplish for youth the difficult transition to full-time employment and/or the potential for long-term careers.[10]

H.R. 6711: The Youth Act of 1980 (popular title). In January, 1980, the President announced a new Youth Employment Initiative that addressed itself to correcting some of the limitations in current programs and which would add about 2 billion dollars to existing funding for youth employment programs by 1982.[11]

---

[10] County Manpower Report, 6(1), February, 1977. "The Problems of Youth Unemployment," whole issue.

[11] "Youth Employment Initiatives." Background report of Office of Media Liaison, The White House Press Office, January 10, 1980.

This program proposes to consolidate and thereby simplify block grant funding procedures for Title IV-A CETA programs and to continue the Job Corps (Title VIII CETA). An additional 1 billion dollars will be sought by 1982 to expand these programs, particularly in the areas of providing incentives to the private sector to develop more jobs for teen parents, school dropouts and juvenile offenders and for youth from low income homes in urban and rural areas of concentrated unemployment.

Of equal importance, the bill proposes to provide the new Department of Education with 1 billion dollars by 1982 to promote the development by schools of training and work experience programs for junior and senior high students in the 3,000 high poverty/high unemployment urban and rural school districts throughout the nation. Approximately 1 million students would be served by this effort.

Coordination between local school district and local CETA programs would be required to increase prospects that each adolescent's combined school and work experience will better serve him or her in making the transition to young adulthood.

The Youth Act of 1980 is modeled in its major components on the President's proposed initiative and is now being debated by Congress.

## Into the 80's: Some Options and Unfinished Business for Broadening the Pathways to Adulthood

Few federal program initiatives during the decade were targeted specifically toward meeting the needs of adolescents, and there is reasonable doubt that adolescents received their fair share of benefits from those other initiatives designed to aid children as members of family units and/or children as a generic class.

Claims pursuing equity and/or special status for adolescents as a class of persons relative to the receipt of program benefits and services infrequently came before the courts in the 70's. Rather, court intervention--from the U.S. Supreme Court to the Juvenile Courts--followed a more traditional path of ruling upon the problems of adolescents and/or initiating actions to correct deviant behavior. Except in cases of consequence to individual children and/or those bearing on procedural guarantees, the courts rarely confronted the key substantive concepts of "mature minor" and "emancipation" as they apply to the rights of and benefits for adolescents as a group.

State legislative initiatives, excepting some upward or downward tinkering with laws governing the age of consent regarding sexual relations and the purchase of alcoholic beverages, were primarily reactive in nature designed to bring state law into compliance with federally adopted program mandates.

Over all, not much was done for adolescents in the 70's, perhaps because as a nation, we remain unsettled about what to do with adolescents. Adolescence as a period of transition from childhood to young adulthood remains as awkward and as difficult to manage for society as it is for adolescents themselves.

The 70's witnessed a continuing downward trend in the average age at first marriage for both men and women, a continuing growth in teenage pregnancies and seemingly growing numbers of adolescents and youth running away from home.

As a society we take a dim view of all of these behaviors, many of which represent efforts on the part of adolescents and youth to assert a level of independence they feel capable of or required to assume.

But were there, and are there now, more socially approvable pathways to young adulthood for those adolescents exercising these "deviant" options? Our nation's signals to youth in this regard are mixed and no doubt confusing.

In the arena of financial benefits and social services, by and large, an adolescent must be a member of an eligible family unit to be eligible himself or herself. On the other hand, at the discretion of a juvenile judge or local welfare official, an unmarried teenage mother may be deemed partially emancipated and therefore eligible for aid and services by virtue of her responsibility for the care of her infant. Further, if teenagers become legally married under state law, they become fully eligible for aid and services for which they could not qualify as separate inidividuals.

In the arena of education and employment we continue to urge adolescents to finish their schooling so that they can qualify for jobs. While this message seems to work for some adolescents, adolescent and youth unemployment remains the highest for any labor market age group and is projected to worsen in the decade ahead unless something is done.[12]

Moreover, as the labor market continues its shift to technical and white collar employment and with it toward ever escalating educational certification requirements for entry level positions, the message shades toward one of continuing in school longer to qualify just to compete for available jobs. The tradeoffs between time invested in schooling and subsequent returns through employment are becoming less attractive over time, particularly for adolescents impatient to establish their claims to adult status.

Even if this trend were not occurring, the relationship between education and employment continues to work selectively for adolescents with whites doing far better than blacks. In 1978, among high school graduate youth in the labor market, only 6.4 percent of all whites were unemployed, while the figure for blacks was 20.3 percent.[13]

Thus, many adolescents in the 70's faced the prospect of having to complete their educations just to qualify to become one of many competing for stock clerk, janitorial and other types of low skilled entry level jobs. Having hurdled this barrier, more than a few found the effort futile when they were turned away by virtue of their lack of experience, racially discriminatory practices, and other arbitrarily applied criteria.

---

[12] Eli Ginzberg, "Youth Unemployment," Scientific American, 242(5), May, 1980, pp. 43-49; and, "Youth Employment Initiatives," Op Cit, Note 11.

[13] Ibid., p. 49.

There are those who, in examining the nation's declining birth rate, assert that many of the imposing problems that confronted adolescents in the 70's will evaporate by virtue of the fact that there will be fewer adolescents among us in the 80's.[14]

A declining birth rate will not in itself, however, alter the shifts occurring in the world of work nor will it change the fact that the "baby boom" that preceded this smaller adolescent population will continue to represent a formidable source of competition for available jobs and other services.

The decline in the number of adolescents in the 80's could lead to proportionately more time and effort invested in each of them. On the other hand, it could mean less of everything for them as a smaller, less visible and less influential minority.[15]

There is cause for concern that the latter result may eventuate. For example, although juvenile delinquency rates may decline as a simple function of smaller numbers of adolescents available to commit such acts, there is no assurance in current trends that, because of this, offenders will be dealt with more humanely. Indeed, juvenile arrest rates have been on the decline through the latter years of the 70's. In spite of this, a number of states have enacted criminal codes with increased leeway for trying juveniles as adults and/or have adopted harsher penalties for juvenile multiple offenders among other actions during this same time period.[16]

Business as usual guided by a faith that demographic trends will resolve the problems of adolescents in the 80's is perhaps the least promising course of action.

Another option, that of creating some form of national service for youth, has resurfaced recently and is again becoming the subject of vigorous debate. Although a wide variety of proposals is being advocated, they commonly support the development of a national program that would require one or more years of service by all capable male and female youth in the years between high school and work or entry to college. Youth would have a number of options for fulfilling this obligation including military duty and public service employment.

---

[14] Walter Guzzardi, Jr., "Demography's Good News for the Eighties," Fortune, November 5, 1979, pp. 92-98 and 102-106.

[15] Peter N. Stearns, "Youth in Contemporary Society: A Turning Point," New Designs for Youth Development 1(2), Jan./Feb., 1980, pp. 1-5.

[16] David Goldberg, "Youth Corrections Officials Crack Down," Atlanta Journal and Constitution, September 30, 1979, p. 10ff.

Among the rationales given in support of such a program are that it would facilitate the transition from childhood to adulthood, provide meaningful training and employment experiences and/or enhance the moral character of youth by virtue of their contribution to the national welfare.

Critics of the concept of a national service for youth point out that such a program does not materially differ from other "dead end" employment or education programs for adolescents, that required service in less than meaningful roles may subvert rather than enhance the moral character of youth, and that, perhaps most importantly, the program does not alter conditions in the world of work ranging from a lack of jobs to racial discrimination that are the real barriers to transition to young adulthood.[17]

Paul Goodman is said to have remarked that the only right education [for children] is growing up in a worthwhile world.[18]

A national service for youth that, in essence, simply represented a more universal (compulsory) extension of our present educational and employment initiatives would be unlikely, in itself, to result in a "more worthwhile world" for adolescents.

A more worthwhile world for adolescents means more equity for them as a group vis-à-vis other age groups and, at the same time, more recognition of their special needs as a group faced with the unique challenges of leaving childhood and become adults.

In general terms, a more worthwhile world for adolescents means broadening the pathway to adulthood by increasing the number of socially approvable options available to them for accomplishing this task.

Specifically, in the area of financial aid and social service programs this means grappling with the concepts of "mature minor" and "emancipation" to effect eligibility criteria enabling qualified adolescents and youth--individuals as well as heads of families--to receive benefits in their own right. Currently, children generally qualify for financial aid and social services as members of eligible family units and/or are deemed eligible themselves at the discretion of juvenile court judges or the whims of local administrators in isolated cases.

Although financial aid and social service programs have historically been premised on promoting family stability, recognition must be paid in the years ahead to the point that this goal does not necessarily serve the legitimate needs of adolescent family members as they strive for independence and self support.[19]

---

[17] Michael B. Katz, "Missing the Point: National Service and the Needs of Youth," Social Policy 10(4), Jan./Feb., 1980, pp. 36-40.

[18] Ibid., p. 40.

[19] For a broader context for assessing this point, see: Gilbert Y. Sterner, "Family Stability and Income Guarantee," COFO Newsletter 2(1), Winter, 1979, pp. 2-

In short, the needs of adolescents must be separated from those of the family and legitimated in these programs.

Juvenile justice and youth services today are euphemisms for activities that judge the deviant adolescent and dispense corrective services.

A greater emphasis upon justice for children in juvenile justice programming initiatives and actions is greatly needed. Specifically, the lower courts need to break with their preoccupation with adolescent deviancy and place more emphasis upon issuing rulings requiring public educational, social service and other agencies to fund and deliver services deemed necessary to an adolescent's normal growth and development.[20] A major source of reluctance on the part of local and state judges to order such supports is fear of political and community backlash. Thus, federal program initiatives supportive of an enlarged judicial role will likely be necessary to effect a desirable change in judicial orientations during the 80's.

A greater emphasis within youth services upon programs supportive of adolescent to adulthood transition and a lessened emphasis upon the correction of deviant behavior--if a choice need be made--should accompany a shift in the orientation of the judiciary. Among other things, the validity of the concept of "status offender" and the raft of programs premised on that label should be re-examined with an eye toward shifting such efforts to the goal of providing normalizing rather than corrective experiences for adolescents who have problems but who have not committed definable delinquent or criminal acts. For example, thought might be given to converting the existing system of runaway shelters to a network of youth hostels during the 80's.

Consistent with this line of reasoning, educational programs should be scrutinized for the purpose of establishing priorities and procedural safeguards that will insure that adolescents receive their fair share of intended educational benefits while respecting, at the same time, our national tradition of local discretion in educational programming. The development of an office for adolescent advocacy in the new Department of Education might be one positive step in this direction.

Although federal employment program proposals clearly are aimed at providing more meaningful work experiences for adolescents and youth in the years ahead through new emphasis upon the linkages between education and employment and a larger role for the private sector, renewed attention to reducing the barriers to employment confronting adolescents would seem needed to enhance prospects for success of these proposals. Barriers worth addressing include irrelevant or excessive educational certification requirements, racially discriminatory practices,

---

6; and, Irving Lazar, "Federal Policies for Families," Human Ecology Forum 9(4), Spring, 1979, pp. 15-18.

[20] George Thomas, "The Changing American Family: Can the Courts Catch Up?," Pepperdine Law Review 6(3), 1979, pp. 733-749.

and excessive past work experiences criteria, all of which frequently exclude adolescents and youth from work they are capable of handling.

The message in all of this is that sanguine views of the effects of changing demographic trends and the implementation of a single massive program, such as a national service program, are unlikely to materially reduce the difficulties contronted by adolescents and youth in their unavoidable march toward adulthood.

Rather, the task lies in expanding the number of socially approvable options to facilitate the assumption of adult status. In this regard, much needs to be done to enable adolescents and youth to receive financial aid and social services in their own right, to turn the juvenile justice system toward working for the rights of children and lowering its preoccupation with correcting what is wrong with children, to assure equity in educational programs, and to reduce barriers to employment in society as part of employment program initiatives.

As a nation in the 70's we marked time, the one thing that adolescents cannot do. The consequences in the 80's of allowing these differences in pace to continue might be likened to the inevitable eruption that results from the prolonged grating of two giant earth plates along a fault line.

Picking up the pace does not mean radical departures and extravagant new programs so much as it means altering and opening up the options available to adolescents within our existing system of laws, courts and services. In so doing, we will be sending a message to the young among us that adolescence is a time of adventure governed by fairness rather than a time of ordeal predicated on failure.

## TABLE OF APPENDICES

A. Marriage, Age of Consent, Emancipation by Marriage

B. Selective Emancipation Statutes: Minor's Ability to Enter Into Valid Contracts

C. Characteristics of Judicial Emancipation Statutes

D. Selective Emancipation Statutes: Minor's Ability to Obtain Medical Care Without Parental Consent

E. Voluntary Admissions of Minors to Mental Hospitals

F. Juvenile Court

G. Waiver of Juvenile Court Jurisdiction

H. Pre-Trial Incarceration of Children with Adults

I. Procedural Protections for Juveniles in the Juvenile Justice System

J. Compulsory Education and Exemptions

K. Child's Voice in Custody Decisions

L. State Plans for Aid to Families with Dependent Children - Eligibility Statutes

M. Drug and Alcohol Abuse Programs

N. Child Abuse Prevention and Treatment Programs

O. Statutory Rape Laws

P. Contributing to the Delinquency of a Minor

Q. Prohibited Distribution of Obscene Materials to Minors

R. Sexual Exploitation of Minors

# APPENDIX A

## MARRIAGE: AGE OF CONSENT, EMANCIPATION BY MARRIAGE

Alabama Code Annotated (Supp 1979): 30-1-4, 30-1-5

Alaska Statutes Annotated (Supp 1979): 25.05.011, 25.05.171, 25.20.020, 25.15.100

Arizona Revised Statutes Annotated (West Supp 1979/80): 25-102, 8-202

Arkansas Revised Statutes Annotated: 55-102, 55-401, 55-247

California Annotated Codes (West Supp 1980): Civil Code 4104, 60, 63

Colorado Revised Statutes (Supp 1978): 14-2-106, 14-2-108, 14-2-208, 14-2-202

Connecticut General Statutes Annotated (Supp 1980): 46b-30, 46b-43, Jan. Session Laws 987, 988 (1979)

Delaware Code Annotated (Interim Supp 1979): 13-123, 13-123(f)

Florida Statutes Annotated (West Supp 1979): 741.04, 741.0405, 743.03

Georgia Code Annotated (Supp 1979): 74-108, 53-102, 53-204

Guam: Government Codes of the Territory (Supp 1974): 56,204

Hawaii Revised Laws (Supp 1979): 571-11, 572-1, 572-2, 572-9, 577-25

Idaho Code Annotated (Supp 1979): 32-101, 32-202

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 40-203

Indiana Statutes Annotated (Burns, Supp 1979): 31-1-1-1, 31-1-1-4

Iowa Code Annotated (West Supp 1979): 599.1, 595.2, 595.3

Kansas Statutes Annotated (Supp 1979): 23-106, 38-101

Kentucky Revised Statutes (Supp 1979): 402.020, 402.030

Louisiana Statutes Annotated (West Supp 1979): Article 379, 380, 381, 382, 383. Article 92, 97, 112

Maine Revised Statutes Annotated (West Supp 1979-80): 19-62

Maryland Code Annotated (Supp 1979): Article 62-9

Massachusetts General Laws Annotated (Supp 1979): 207-24, 207-25

Michigan Compiled Laws Annotated (Supp 1980): 7222.4, 722.1, 551.103

Minnesota Statutes Annotated (West Supp 1980): 517.02

Mississippi Code Annotated (Supp 1979): 93-1-5, 93-19-11

Missouri Annotated Statutes (Vernon's Supp 1980): 442.040, 451.090, 452.150

Montana Code Annotated (Supp 1980): 40-1-202, 40-1-213, 40-6-234, 40-6-221, 41-402, 41-1-404, 41-1-406, 41-303, 41-1-305, 41-1-306, 33-15-103

Nebraska Revised Statutes (Supp 1979): 42-102, 42-105, 38-101

Nevada Revised Statutes (Supp 1979): 122.020

New Hampshire Revised Statutes Annotated (Supp 1979): 457:5, 457:4, 457:6

New Jersey Statutes Annotated (West Supp 1979-80): 37-1-6

New Mexico Statutes Annotated (Supp 1979): 28-6-1, 40-1-5, 40-1-6

New York Consolidated Laws (McKinney, Supp 1979-80): Domestic Relations 15a

North Carolina General Statutes Annotated (Supp 1979): 7A-726, 7A-724, 51-3, 51-2

North Dakota Century Code Annotated (Supp 1979): 14-03-02, 14-10-10, 14-09-20

Ohio Revised Code (Page Supp 1979): 3101.01, 2151.23, 3101.04

Oklahoma Statutes Annotated (West Supp 1979-80): 333, 10-10, 10-5

Oregon Revised Statutes (1979): 106.010, 106.060, 109.520

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 48-1-5(b), 48-1-5(c), 1-321, 10-2175

Puerto Rico Laws Annotated (Supp 1978): Title 31-232, 31-242, 31-901, 31-931, 31-932

Rhode Island General Laws Annotated (Supp 1979): 15-2-11

South Carolina Code Annotated (Supp 1978): 20-1-250, 20-1-300, 20-3-40

South Dakota Compiled Laws Annotated (Supp 1979): 25-1-19, 25-1-12, 25-1-13, 25-5-17

Tennessee Code Annotated (Supp 1979): 36-407, 36-408, 36-409, 36-410

Texas Statutes Annotated (Vernon's Supp 1979): 1.51, 1.52, 1.53

Utah Code Annotated (Supp 1979): 30-1-2, 30-1-9, 15-2-1

Vermont Statutes Annotated (Supp 1979): Title 18 5142

Virginia Code Annotated (Supp 1979): 20-48, 20-45-1, 20-49, 55-42

Virgin Islands Code (Supp 1979): 16-241, 16-254, 16-36

Washington Revised Code Annotated (West Supp 1979): 26.04.010, 26.04.210, 26.28.020, 26.28.015

West Virginia Code Annotated (Supp 1979): 48-1-1, 48-1-8, 49-1-27

Wisconsin Statutes Annotated (West Supp 1979-80): 245.02

Wyoming Statutes Annotated (Supp 1979): 20-1-102, 20-1-105

# APPENDIX B

## SELECTIVE EMANCIPATION STATUTES
## MINOR'S ABILITY TO ENTER INTO VALID CONTRACTS

Alabama Code Annotated (Supp 1979): 22-8-4, 22-8-6, 22-16-9, 27-14-5

Arizona Revised Statutes Annotated (West Supp 1979/80): 44-131, 44-132, 44-132.01

Arkansas Revised Statutes Annotated (Supp 1979): 67-554

California Annotated Codes (West Supp 1980): Civil Code 34.9, 36
Military and Veteran Code 986.10
Insurance Code 10112

Colorado Revised Statutes (Supp 1978): 4-1-103, 10-7-110, 13-22-103

Connecticut General Statutes Annotated (Supp 1980): 19-142a, 38-156, 38-157

Delaware Code Annotated (Interim Supp 1979): Title 6-1-103, Title 18-2707

District of Columbia Revised Code (Supp 1979): 1-265

Florida Statutes Annotated (West Supp 1979): 743.01, 743.04, 743.05, 743.06

Georgia Code Annotated (Supp 1979): 20-21, 20-203, 32-3109, 56,2406, 74,104.2

Guam: Government Codes of the Territory (Supp 1974): Civil Code 37

Hawaii Revised Laws (Supp 1979): 309-3, 431-412, 573-7, 577-2, 577-25, 577A-4

Idaho Code Annotated (Supp 1979): 32-101, 32-104, 32-105, 65.501

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 26-1-103, 29-43, 73-854, 73-981, 111-4501, 111-4502, 111-4504

Indiana Statutes Annotated (Burns, Supp 1979): 16-8-3-1(b), 16-8-4-1, 16-8-4-2, 16-8-5-1, 20-12-21.1, 27-1-12-15, 28-1-26.5-1

Iowa Code Annotated (West Supp 1979): 140.9, 599.2, 599.3, 599.5

Kansas Statutes Annotated (Supp 1979): 38-103

Kentucky Revised Statutes (Supp 1979): 164.756, 355.1-103, 384.090. Kentucky Constitution 59

Louisiana Statutes Annotated (West Supp 1979): 17:3023.6, 22:612 Civil Code 1785, 2222, 2225

Maine Revised Statutes Annotated (West Supp 1979-80): 24-A-2407, 33-5-2

Maryland Code Annotated (Supp 1979): Estates and Trusts 3-503 Commercial Law 1-103

Massachusetts General Laws Annotated (Supp 1979): 106-1-103, 167-62, 168-37A, 175-113k, 175-128

Michigan Compiled Laws Annotated (Supp 1980): 35.541, 390.958, 440.1103, 500.2206, 600.1403

Minnesota Statutes Annotated (West Supp 1980): 144.345

Mississippi Code Annotated (Supp 1979): 37-106-19, 75-1-103, 83-7-19

Missouri Annotated Statutes (Vernon's Supp 1980): 208.040, 211.442, 431.061

Montana Code Annotated (Supp 1980): 64-106.1, 64-108, 64-109

Nebraska Revised Statutes (Supp 1979): 44-705, UCC 1-103

Nevada Revised Statutes (Supp 1979): 159.097, 687B.070

New Hampshire Revised Statutes Annotated (Supp 1979): 186.58, 382-A:1-103

New Jersey Statutes Annotated (West Supp 1979-80): 9:17A-2, 12A:1-103, 17B:24-2, 18A:72-21

New Mexico Statutes Annotated (Supp 1979): 21-21-20, 55-1-103, 24-10-1, 59-16-5

New York Consolidated Laws (McKinney, Supp 1979-80): General Obligation Law 3-101, 3-102, 3-103, 3-105; Education Law 681; Commercial Law 1-103

North Carolina General Statutes Annotated (Supp 1979): 25-1-103, 39-13.2, 58-205.1

North Dakota Century Code Annotated (Supp 1979): 14-10-09, 14-10-17.1, 14-10-12, 37-10-37, 14-10-13

Ohio Revised Code (Page Supp 1979): 1301.03, 3109.02, 3351.09, 3911.08

Oklahoma Statutes Annotated (West Supp 1979-80): Title 15-17, 15-19, 15-20, 15-33; Title 16-1; Title 36-3606; Title 72-49.1

Oregon Revised Statutes (1979): 71.1030, 348.105

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 24-5105, 51-701, 62-2331(f), 73-2021

Puerto Rico Laws Annotated (Supp 1978): Title 20-1103

Rhode Island General Laws Annotated (Supp 1979): 6A-1-103

South Carolina Code Annotated (Supp 1978): 15-71-120, 32-510, 32-530

South Dakota Compiled Laws Annotated (Supp 1979): 26-2-1, 26-2-2, 26-2-4, 13-56-4

Tennessee Code Annotated (Supp 1979): 47-1-103, 49-5009

Texas Statutes Annotated (Vernon's Supp 1979): Insurance Code Article 3.49-2; Business and Commercial Code Title 1-1.103; Education Code Title 3-52.34

Utah Code Annotated (Supp 1979): 15-2-2, 15-2-3, 31-19.2

Vermont Statutes Annotated (Supp 1979): 9A-1-103

Virginia Code Annotated (Supp 1979): 8.01-278, 8.1-103, 38.1-436

Virgin Islands Code (Supp 1979): Title 11A-1-103, Title 22-802

Washington Revised Code Annotated (West Supp 1979): 26.28.020, 26.28.030, 26.28.040, 48.18.020, Constitution Article 2-26

West Virginia Code Annotated (Supp 1979): 33-6-4, 46-1-103, 48-3-25

Wisconsin Statutes Annotated (West Supp 1979-80): 39.32(4), 401.103

Wyoming Statutes Annotated (Supp 1979): 26-15-104, 34-21-103

# APPENDIX C

## CHARACTERISTICS OF JUDICIAL EMANCIPATION STATUTES

Alabama Code Annotated (Supp 1979): 26-13-1 et seq.

Alaska Statutes Annotated (Supp 1979): Code Civil Procedure 09.55.590

Arkansas Revised Statutes Annotated: 34-2001, 34-2002

California Annotated Codes (West Supp 1980): Civil Code 60 et seq.

Connecticut General Statutes Annotated (Supp 1980): 1979 Conn. Legislature Service P.A. 79-397

Kansas Statutes Annotated (Supp 1979): 38-108 et seq.

Louisiana Statutes Annotated (West Supp 1979): 370 et seq.

Michigan Compiled Laws Annotated (Supp 1980): 722.1 et seq.

Mississippi Code Annotated (Supp 1979): 93-19-1 et seq.

Montana Code Annotated (Supp 1980): 61-119

North Carolina General Statutes Annotated (Supp 1979): 7A-717 et. seq.

Ohio Revised Code (Page Supp 1979): 2111.18

Oklahoma Statutes Annotated (West Supp 1979-80): 10-92 et seq.

Oregon Revised Statutes (1979): 109.510 et seq.

Puerto Rico Laws Annotated (Supp 1978): Title 31-901 et seq.

South Carolina Code Annotated (Supp 1978): 15-71-120

South Dakota Compiled Laws Annotated (Supp 1979): 25-5-17 et seq.

Tennessee Code Annotated (Supp 1979): 23-1201 et seq.

Texas Statutes Annotated (Vernon's Supp 1979): Family Code 31.01 et seq.

Virgin Islands Code (Supp 1979): Title 16-221 et seq.

West Virginia Code Annotated (Supp 1979): 49-727

# APPENDIX D

## SELECTIVE EMANCIPATION STATUTES: MINOR'S ABILITY TO CONSENT TO MEDICAL TREATMENT WITHOUT PARENTAL CONSENT

Alabama Code Annotated (Supp 1979):
General: Sec. 22-8-4,5
Emergency: Sec. 22-8-3
Pregnancy: Sec. 22-8-6
Drug Abuse: Sec. 22-8-6
Venereal: Sec. 22-8-6
Abortion: Sec. 18.16.010
Contraception: Sec. 18-05.035

Alaska Statutes Annotated (Supp 1979):
General: Sec. 09.65.100; 25.02.020
Emergency: Sec. 09.65.100(z)
Pregnancy: Sec. 09.65.100(4)
Venereal: Sec. 06.65.100(4)
Abortion: Sec. 11.15.060
Contraception: Sec. 09.65.100(4)

Arizona Revised Statutes Annotated (West Supp 1979/80):
General: Sec. 44-132
Emergency: Sec. 44-133
Drug Abuse: Sec. 44-135.01
Venereal: Sec. 44-132.01
Abortion: Sec. 13-3603

Arkansas Statutes Annotated:
General: Sec. 82-363
Emergency: Sec. 82-364, 364.1
Pregnancy: Sec. 82-363
Abortion: Secs. 41-2555, 2556, 2557
Venereal: Secs. 82-629, 630, 631
Contraception: Sec. 82-3104

California Annotated Codes (West Supp 1979):
General: Civil Code Sec. 25.6, .7; 34.6
Pregnancy: Civil Code Sec. 34.5
Drug Abuse: Civil Code Sec. 34.10
Venereal: Civil Code Sec. 34.7
Abortion: Health & Safety Sec. 25951

Colorado Revised Statutes (Supp 1978):
General: Sec. 13-22-103
Drug Abuse: Sec. 13-22-101
Venereal: Sec. 25-4-402
Abortion: Sec. 18-6-101
Contraception: Sec. 13-22-105

Connecticut General Statutes Annotated (Supp 1980):
General: Sec. 19-142a
Drug Abuse: Sec. 19-496c
Venereal: Sec. 19-89a

Delaware Code Annotated (Interim Supp 1979):
General: Title 13, Sec. 707
Emergency: Title 13, Sec. 707
Pregnancy: Title 13, Sec. 708
Venereal: Title 13, Sec. 708
Abortion: Title 13, Sec. 708
Contraception: Title 13, Sec. 708

District of Columbia Revised Code (Supp 1979):

| | | | |
|---|---|---|---|
| Venereal: | Sec. 6119j-1 | Abortion: | Sec. 22-201 |

Florida Statutes Annotated (West Supp):

| | | | |
|---|---|---|---|
| General: | Op. Atty. Gen. 076-26 | Venereal: | Sec. 384.061 |
| | Jan. 29, 1976 | Abortion: | Sec. 458.23 |
| Emergency: | Sec. 458.21 | Drug Abuse: | Sec. 397.099 |
| Pregnancy: | Sec. 458.215 | | |

Georgia Code Annotated (Supp 1979):

| | | | |
|---|---|---|---|
| General: | Sec. 88-2904 | Venereal: | Sec. 74-104.3 |
| Emergency: | Sec. 88-2905 | Abortion: | Sec. 26-1201 |
| Pregnancy: | Sec. 88-2904(f) | Contraception: | Sec. 88-2904(f) |
| Drug Abuse: | Sec. 74-104.3, .4 | | |

Hawaii Revised Laws (Supp 1979):

| | | | |
|---|---|---|---|
| Pregnancy: | Sec. 577A-1,2(14) | Venereal: | Secs. 577A-2,3,4(14) |
| Drug Abuse: | Sec. 577A-26 | Abortion: | Sec. 543-16, 577A-1 |
| | | Contraception: | Sec. 577A-1,2(14) |

Idaho Code Annotated (Supp 1979):

| | | | |
|---|---|---|---|
| Venereal: | Sec. 39-3801 | Abortion: | Sec. 18-608 |
| Contraception: | Sec. 18-603 | | |

Illinois Statutes Annotated (Smith-Hurd, Supp 1979):

| | | | |
|---|---|---|---|
| General: | Ch. 111 Secs. 4501, | Venereal: | Ch. 111, Sec. 4501 |
| | 4502 | Abortion: | Ch. 38, Secs. 81-51, 54 |
| Emergency: | Ch. 111, Sec. 4503 | Drug Abuse: | Ch. 111, Sec. 4504 |

Indiana Statutes Annotated (Burns Supp 1979):

| | | | |
|---|---|---|---|
| General: | Secs. 16-8-3-1, | Venereal: | Sec. 16-8-5-1 |
| | 16-8-4-1,2 | Abortion: | Secs. 35-1-58, 5-2 |
| Emergency: | Sec. 16-8-3-2 | | |

Iowa Code Annotated (West Supp 1979):

| | | | |
|---|---|---|---|
| Abortion: | Sec. 707.7 | Venereal: | Sec. 140.9 |
| | | Contraception: | Sec. 234.21 |

Kansas Statutes Annotated (Supp 1979):

| | | | |
|---|---|---|---|
| General: | Sec. 38-1236 | Venereal: | Sec. 65-2892 |
| Emergency: | Sec. 65-2891 | Abortion: | Sec. 24-3407 |
| Pregnancy: | Sec. 38-123 | Contraception: | Sec. 23-502 |
| Drug Abuse: | Sec. 65-2892(a) | | |

Kentucky Revised Statutes (Supp 1978):

| | | | |
|---|---|---|---|
| General: | Sec. 214.185 | Venereal: | Sec. 214.185 |
| Emergency: | Sec. 214.185 | Abortion: | Sec. 311.740 |
| Pregnancy: | Sec. 214.185 | Contraception: | Sec. 214.185 |
| Drug Abuse: | Sec. 65-289(a) | | |

Louisiana Statutes Annotated (West Supp 1979):
General: Sec. 40:1095
Drug Abuse: Sec. 40:1096
Venereal: Sec. 40:1065.1
Abortion: Sec. 1299.35, 35.5, 35.6

Maine Revised Statutes Annotated (West Supp 1979/80):
Drug Abuse: Title 22, Sec. 1823
Venereal: Title 22, Sec. 1823
Abortion: Title 22, Sec. 1598

Maryland Code Annotated (Supp 1979):
General: Art. 43, Sec. 135, 135A
Emergency: Art. 43, Sec. 135
Pregnancy: Art. 43, Sec. 135(2)
Drug Abuse: Art. 43, Sec. 135(4), (5)
Venereal: Art. 43, Sec. 135(2)
Abortion: Art. 43, Sec. 135
Contraception: Art. 43, Sec. 135(2)

Massachusetts General Laws Annotated (Supp 1979):
General: Ch. 112, Sec. 12F
Emergency: Ch. 112, Sec. 12F
Venereal: Ch. 111, Sec. 117
Drug Abuse: Ch. 112, Sec. 12E

Minnesota Statutes Annotated (West Supp 1980):
General: Sec. 144.341, 342
Emergency: Sec. 144.344
Pregnancy: Sec. 144.343
Drug Abuse: Sec. 144.343
Venereal: Sec. 444.343
Abortion: Sec. 145.925
Contraception: Sec. 144.341, 145.925

Mississippi Code Annotated (Supp 1979):
General: Sec. 41-41-3
Emergency: Sec. 41-41-7, 9
Pregnancy: Sec. 41-41-3
Venereal: Sec. 41-41-13
Abortion: Sec. 97-3-37
Drug Abuse: Sec. 41-41-14

Missouri Annotated Statutes (Vernon's Supp 1980):
General: Sec. 431.061; 062
Emergency: Sec. 431.063
Pregnancy: Sec. 431.061
Drug Abuse: Secs. 69-6101, 6102
Venereal: Sec. 431.061
Abortion: Sec. 188.028
Contraception: Sec. 41-42-7

Montana Code Annotated (Supp 1980):
General: Sec. 69-6101, 6102
Emergency: Sec. 69-6101
Pregnancy: Sec. 69-6101, 6104
Venereal: Sec. 69-6101
Abortion: Sec. 95-5-616
Contraception: Sec. 69-6101

Nebraska Revised Statutes (Supp 1979):
Abortion: Sec. 28-333
Venereal: Sec. 77-1121

Nevada Revised Statutes (Supp 1979):
General: Sec. 129.030
Emergency: Sec. 129.040
Drug Abuse: Sec. 129.050
Venereal: Sec. 129.060; 441.175
Abortion: Sec. 442.250

New Hampshire Revised Statutes Annotated (Supp 1979):

| | | | |
|---|---|---|---|
| Drug Abuse: | Sec. 318.B:12-a | Venereal: | Sec. 141.11-a |

New Jersey Statutes Annotated (West Supp 1979-80):

| | | | |
|---|---|---|---|
| General: | Secs. 17A-1, 5 | Venereal: | Secs. 9:17A-4, 5 |
| Pregnancy: | Sec. 9:17A-1 | Abortion: | Sec. 2A:85-23, Note 29 repealed by Sec. 2C:98-2 |
| Drug Abuse: | Sec. 9:17A-4 | | |

New Mexico Statutes Annotated (Supp 1979):

| | | | |
|---|---|---|---|
| General: | Sec. 24-10-1 | Venereal: | Sec. 24-1-9 |
| Emergency: | Sec. 24-10-2 | Abortion: | Sec. 40A-5-1 |
| Pregnancy: | Sec. 24-1-13 | Drug Abuse: | Sec. 26-2-14 |

New York Consolidated Laws (McKinney, Supp 1979-80):

| | |
|---|---|
| General: | N.Y. Pub. Health Law Sec. 2504 |
| Emergency: | N.Y. Pub. Health Law Sec. 2504 |
| Venereal: | N.Y. Pub. Health Law Sec. 2503(2) |
| Abortion: | N.Y. Penal Code 125.05 |

North Carolina General Statutes Annotated (Supp 1979):

| | | | |
|---|---|---|---|
| General: | Secs. 90-21.1, 2, 3, 5 | Venereal: | Sec. 90-21.5 |
| | | Abortion: | Sec. 14-45.1 |
| Emergency: | Secs. 90-21.1 4 (1975); 7A-752 | Contraception: | Sec. 90-21.5 |
| | | Pregnancy: | Sec. 90-21.5 |

North Dakota Century Code Annotated (Supp 1979):

| | | | |
|---|---|---|---|
| Emergency: | Sec. 14-10-17.1 | Venereal: | Sec. 14-10-17 |
| Drug Abuse: | Sec. 14-10-17 | Abortion: | Sec. 14-02.1-02, 03, 04 |

Ohio Revised Code (Page Supp 1979):

| | |
|---|---|
| Drug Abuse: | Sec. 3719.01.2 |
| Venereal: | Sec. 3709.24.1 |

Oklahoma Statutes Annotated (West Supp 1979-80):

| | | | |
|---|---|---|---|
| General: | Title 63, Secs. 2602, 2604 | Pregnancy: | Title 63, Sec. 2602 |
| | | Drug Abuse: | Title 65, Sec. 2602 |
| Emergency: | Title 65, Sec. 2602(7) | | |

Oregon Revised Statutes (1979):

| | | | |
|---|---|---|---|
| General: | Sec. 109.640, 650 | Abortion: | Sec. 435.435 |
| Venereal: | Sec. 109.610 | Contraception: | Sec. 109.640 |

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80):

| | | | |
|---|---|---|---|
| General: | Title 35, Sec. 10101 | Venereal: | Title 35, Sec. 10103 |
| Emergency: | Title 35, Sec. 10104 | Abortion: | Title 35, Sec. 6603 |
| Pregnancy: | Title 35, Sec. 10103, 10101 | | |

Puerto Rico Laws Annotated (Supp 1978):

| | |
|---|---|
| Venereal: | Title 24, Sec. 557 |

Rhode Island General Laws Annotated (Supp 1979):
General: Sec. 23-4.6-1
Abortion: Secs. (11-3-1, 2, 3, 4) 11-23-5
Venereal: Sec. 23-11-11

South Carolina Code Annotated (Supp 1978):
General: Secs. 32-5-30; 44-45-10; 30
Venereal: Secs. 44-29-90; 44-29-135
Abortion: Sec. 44-41-30

South Dakota Compiled Laws Annotated (Supp 1979):
Venereal: Sec. 53-1104
Abortion: Sec. 39-302

Tennessee Code Annotated (Supp 1979):
Venereal: Sec. 53-1104
Abortion: Sec. 39-302

Texas Statutes Annotated (Vernon Supp 1979):
General: Tex. Fam. Code Ann. Title 35, Sec. 01 (Vernon 1975)
Pregnancy: Tex. Fam. Code Ann. Title 35, Sec. 03 (4)
Drug Abuse: Tex. Fam. Code Ann. Title 35, Sec. 01; Art. 447
Venereal: Tex. Fam. Code Ann. Title 35.03(a)(3)
Abortion: No abortion statutes per se. Op. Atty. Gen. 1974, No H-139

Utah Code Annotated (Supp 1979):
Pregnancy: Sec. 78-14-5
Abortion: Sec. 76-7-304, 305
Venereal: Sec. 26-6-39.1

Vermont Statutes Annotated (Supp 1979):
Venereal: Title 18, Sec. 4226

Virginia Code Annotated (Supp 1979):
General: Sec. 54-325.2
Emergency: Sec. 54-325.2
Pregnancy: Sec. 54-325.2
Drug Abuse: Sec. 54-325.2
Venereal: Sec. 54-325.2
Abortion: Sec. 18.2-76.1

Virgin Islands Code (Supp 1979):
General: Title 19, Secs. 291, 292
Emergency: Title 19, Sec. 291
Drug Abuse: Title 19, Sec. 291(c), 292
Venereal: Title 19, Sec. 291(b)
Abortion: Title 19, Sec. 291(a)
Contraception: Title 19, Sec. 291(e)

Washington Revised Code Annotated (West Supp 1979):
General: Sec. 70.24.110
Venereal: Sec. 70.24.110
Abortion: Sec. 9.02.070

West Virginia Code Annotated (Supp 1979):
Venereal: Sec. 16-4-10
Abortion: Sec. 61-2-8
Contraception: Sec. 16-20-2

Wisconsin Statutes Annotated (West Supp 1979-80):
Venereal: Sec. 143.07
Abortion: Sec. 940.04

Wyoming Statutes Annotated (Supp 1979):
Emergency: Sec. 35-2-115 Venereal: Sec. 35-4-131
Abortion: Sec. 35-6-101,102 Contraception: Sec. 35-14-101

## APPENDIX E

## VOLUNTARY ADMISSIONS OF MINORS TO MENTAL HOSPITALS

Alabama Code Annotated (Supp 1979): 22-8-4 to 22-8-6

Alaska Statutes Annotated (Supp 1979): 47.30.020 to 47.30.050

Arizona Revised Statutes Annotated (West Supp 1979/80): 36-518 to 36-519

Arkansas Revised Statutes Annotated: 59-1403

California Annotated Codes (West Supp 1980): Welfare & Institution 6000-6002

Colorado Revised Statutes (Supp 1978): 27-10-102 to 27-10-104

Connecticut General Statutes Annotated (Supp 1980): 17-187, 17-206

Delaware Code Annotated (Interim Supp 1979): Title 16 5123

District of Columbia Revised Code (Supp 1979): 21-511, 21-512

Florida Statutes Annotated (West Supp 1979): House bill #1632 (1979), 394.465

Georgia Code Annotated (Supp 1979): 88-503.1 to 88-503.3

Guam: Government Codes of the Territory (Supp 1974): 49200 to 49203

Hawaii Revised Laws (Supp 1979): 334-60

Idaho Code Annotated (Supp 1979): 66-318 to 66-322

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 3-500 to 3-511

Indiana Statutes Annotated (Burns, Supp 1979): 16-14-9.1-2

Iowa Code Annotated (West Supp 1979): 229.2, 229.4, 229.15, 229.16

Kansas Statutes Annotated (Supp 1979): 59-2905 to 59-2907

Kentucky Revised Statutes (Supp 1979): 202A.020

Louisiana Statutes Annotated (West Supp 1979): 28-51 to 52.3

Maine Revised Statutes Annotated (West Supp 1979-80): 34-2290 to 34-2374

Maryland Code Annotated (Supp 1979): Art. 59-11, Art. 43-135

Massachusetts General Laws Annotated (Supp 1979): 123-10, 123-11

Michigan Compiled Laws Annotated (Supp 1980): 330.1415 to 330.1420

Minnesota Statutes Annotated (West Supp 1980): 253A.02 to 253A.03, 253A.06, 253A.11

Mississippi Code Annotated (Supp 1979): 41-21-103

Missouri Annotated Statutes (Vernon's Supp 1980): 202.115

Montana Code Annotated (Supp 1980): 53-21-111 to 53-21-115

Nebraska Revised Statutes (Supp 1979): 83-324

Nevada Revised Statutes (Supp 1979): 433A.140

New Hampshire Revised Statutes Annotated (Supp 1979): 135-B:9 to 135-B:18

New Jersey Statutes Annotated (West Supp 1979-80): 30:4-46 to 30:4-48

New Mexico Statutes Annotated (Supp 1979): 43-1-16

New York Consolidated Laws (McKinney, Supp 1979-80): 4A-9.13

North Carolina General Statutes Annotated (Supp 1979): 122-56.1 to 122.56.10

North Dakota Century Code Annotated (Supp 1979): 25-03.1-04 to 25.03.1-06

Ohio Revised Code (Page Supp 1979): 5122.02 to 5122.03

Oklahoma Statutes Annotated (West Supp 1979-80): 43A-184

Oregon Revised Statutes (1979): 426.220

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 50-7201 to 50-7207

Puerto Rico Laws Annotated (Supp 1978): 24-141

Rhode Island General Laws Annotated (Supp 1979): 40.1-5-6

South Carolina Code Annotated (Supp 1978): 44-17-310 to 44-17-340

South Dakota Compiled Laws Annotated (Supp 1979): 27-A-8-2 to 27-A-12-16

Tennessee Code Annotated (Supp 1979): 33-601 to 33-613

Texas Statutes Annotated (Vernon's Supp 1979): 5547-22 to 5547-25

Utah Code Annotated (Supp 1979): 64-7-29 to 64-7-31

Vermont Statutes Annotated (Supp 1979): 7503, 7802, 8010

Virginia Code Annotated (Supp 1979): 37.1-65, 37.1-84, 37.1-98, 37.1-103

Virgin Islands Code (Supp 1979): Title 1174a to 1201

Washington Revised Code Annotated (West Supp 1979): 71.05.050

West Virginia Code Annotated (Supp 1979): 27-4-1 to 27-4-4

Wisconsin Statutes Annotated (West Supp 1979-80): 51.13

Wyoming Statutes Annotated (Supp 1979): 25-3-106 to 25-3-108

# APPENDIX F

## JUVENILE COURT

Alabama Code Annotated (Supp 1979): Vol II 12-15-1 et. seq.

Alaska Statutes Annotated (Supp 1979): 47.10.010

Arisona Revised Statutes Annotated (West Supp 1979/80): 8-201

Arkansas Revised Statutes Annotated: 45-401 et seq.

California Annotated Codes (West Supp 1980): Welfare & Institutions 300, 601, 602

Colorado Revised Statutes (Supp 1978): 19-1-101 et seq.

Connecticut General Statutes Annotated (Supp 1980): 46b-120 et seq.

Delaware Code Annotated (Interim Supp 1979): 901 et seq.

District of Columbia Revised Code (Supp 1979): 16-2301 et seq.

Florida Statutes Annotated (West Supp 1979): 39.001 et seq.

Georgia Code Annotated (Supp 1979): 24A-201 et seq.

Hawaii Revised Laws (Supp 1979): 571-1 et seq.

Idaho Code Annotated (Supp 1979): 16-1801 et seq. and 16-1601 et seq.

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 37-701-1 et seq.

Indiana Statutes Annotated (Burns, Supp 1979): 31-6-1-1 et seq.

Iowa Code Annotated (West Supp 1979): 232.1 et seq.

Kansas Statutes Annotated (Supp 1979): 38-801 et seq.

Kentucky Revised Statutes (Supp 1979): 208.010 et seq.

Louisiana Statutes Annotated (West Supp 1979): 13-1561 et seq.
Code of Juvenile Procedure Articles 1 to 121

Maine Revised Statutes Annotated (West Supp 1979-80): Title 15, ch. 501 3001 et seq., Title 22, ch. 1051 3701 et seq.

Maryland Code Annotated (Supp 1979): 3-801

Massachusetts General Laws Annotated (Supp 1979): Title XVII, ch. 119-21 et seq.

Michigan Compiled Laws Annotated (Supp 1980): 712A.1 et seq.

Minnesota Statutes Annotated (West Supp 1980): 260.011 et seq.

Mississippi Uncodified: S.B. 2364 (Youth Court Act) (1979)

Missouri Annotated Statutes (Vernon's Supp 1980): 211.011 et seq.

Montana Revised Code of (Supp 1980): 10-1202 (Youth Court Act)

Nebraska Revised Statutes (Supp 1979): 43-201

Nevada Revised Statutes (Supp 1979): 5-62010 et seq.

New Hampshire Revised Statutes Annotated (Supp 1979): 169.1 et seq.

New Jersey Statutes Annotated (West Supp 1979-80): 2A:4-42

New Mexico Statutes Annotated (Supp 1979): 13-14-1

New York Consolidated Laws (McKinney, Supp 1979-80): Family Court Act 111 et seq.

North Carolina General Statutes Annotated (Supp 1979): 7A-277 et seq.

North Dakota Century Code Annotated (Supp 1979): 27-20-01 et seq.

Ohio Revised Code (Page Supp 1979): 21-2151.01 et seq.

Oklahoma Statutes Annotated (West Supp 1979-80): Title 10, ch. 51 1101 et seq.

Oregon Revised Statutes (1979): 419.472 et seq.

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 42-6301 et seq.

Puerto Rico Laws Annotated (Supp 1978): Title 34, ch. 147 2001 et seq.

Rhode Island General Laws Annotated (Supp 1979): 14-1-1 et seq.

South Carolina Code Annotated (Supp 1978): 14-21-510 et seq.

South Dakota Compiled Laws Annotated (Supp 1979): 26-8-1 et seq.

Tennessee Code Annotated (Supp 1979): 37-201 et seq.

Texas Statutes Annotated (Vernon's Supp 1979): Family Code, Title 3 51.01 et seq.

Utah Code Annotated (Supp 1979): 78-3a-1 et seq.

Vermont Statutes Annotated (Supp 1979): 33-631 et seq.

Virginia Code Annotated (Supp 1979): 16.1-226 et seq.

Washington Revised Code Annotated (West Supp 1979): 13.04.005 et seq.

West Virginia Code Annotated (Supp 1979): 49-1-1 et seq.

Wisconsin Statutes Annotated (West Supp 1979-80): 48.01 et seq.

Wyoming Statutes Annotated (Supp 1979): 14-6-201 et seq.

## APPENDIX G

## WAIVER OF JUVENILE COURT JURISDICTION

Alabama Code Annotated (Supp 1979): 12-15-34

Alaska Statutes Annotated (Supp 1979): 47.10.060

Arizona Constitution Articles 6 Section 15: Rules 12-14

Arkansas Revised Statutes Annotated: 45-420

California Annotated Codes (West Supp 1980): Welfare & Institutions 606

Colorado Revised Statutes (Supp 1978): 19-1-104(4), 19-3-108

Connecticut General Statutes Annotated (Supp 1980): 466-126, 466-127

Delaware Code Annotated (Interim Supp 1979): 10-938

District of Columbia Revised Code (Supp 1979): 16-2307

Florida Statutes Annotated (West Supp 1979): 39.09, 39.09(2),
Juvenile Rules 8.100, 8.110

Georgia Code Annotated (Supp 1979): 24A-2501

Hawaii Revised Laws (Supp 1979): 571-22

Idaho Code Annotated (Supp 1979): 16-1806

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 37-702-7(3)

Indiana Statutes Annotated (Burns, Supp 1979): 31-5-7-14(a)(b)

Iowa House File 248: 25(1979), 3(3)(1979)

Kansas Statutes Annotated (Supp 1979): 38-808

Kentucky Revised Statutes (Supp 1979): 208.170

Louisiana Statutes Annotated (West Supp 1979): 13.1571.1

Maine Revised Statutes Annotated (West Supp 1979-80): 3101(4)

Maryland Code Annotated (Supp 1979): 3-817

Massachusetts General Laws Annotated (Supp 1979): 119 61

Michigan Compiled Laws Annotated (Supp 1980): 27.3178(598.4)

Minnesota Statutes Annotated (West Supp 1980): 260.125

Mississippi Code Annotated (Supp 1979): 43-21-31

Missouri Annotated Statutes (Vernon's Supp 1980): 211.071

Montana Code Annotated (Supp 1980): 41-5-206

Nevada Revised Statutes (Supp 1979): 62.080

New Hampshire Revised Statutes Annotated (Supp 1979): 169-B-24

New Jersey Statutes Annotated (West Supp 1979-80): 2A:4-48

New Mexico Statutes Annotated (Supp 1979): 13-14-27, 13-14-27.1 (1975)

New York Consolidated Laws (McKinney, Supp 1979-80): None

North Carolina General Statutes Annotated (Supp 1979): 7A-280

North Dakota Century Code Annotated (Supp 1979): 27-20-34

Ohio Revised Code (Page Supp 1979): 2151.26

Oklahoma Statutes Annotated (West Supp 1979-80): 10 Section 1112

Oregon Revised Statutes (1979): 419.533

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 42 Section 6355

Puerto Rico Laws Annotated (Supp 1978): 34:2004

Rhode Island General Laws Annotated (Supp 1979): 14-1-7, 14-1-9

South Carolina Code Annotated (Supp 1978): 14-21-510

South Dakota Compiled Laws Annotated (Supp 1979): 26-8-22.7, 26-11-4

Tennessee Code Annotated (Supp 1979): 37-234, 37-245

Texas Statutes Annotated (Vernon's Supp 1979): 54.02

Utah Code Annotated (Supp 1979): 78-39-25

Vermont Statutes Annotated (Supp 1979): None

Virginia Code Annotated (Supp 1979): 16.1-269

Virgin Islands Code (Supp 1979): 4:176

Washington Revised Code Annotated (West Supp 1979): 13.04.110

West Virginia Code Annotated (Supp 1979): 49-5-10

Wisconsin Statutes Annotated (West Supp 1979-80): 48.18

Wyoming Statutes Annotated (Supp 1979): 14-6-237

## APPENDIX H

## PRE-TRIAL INCARCERATION OF CHILDREN WITH ADULTS

Alabama Code Annotated (Supp 1979): 12-15-61, 12-15-71(d)

Alaska Statutes Annotated (Supp 1979): 47.10.140

Arizona Revised Statutes Annotated (West Supp 1979-80): 8-226

Arkansas Constitution Article 22, Section 16: 45-605, 45-606

California Annotated Codes (West Supp 1980): Welfare & Institutions 207, 208

Colorado Revised Statutes (Supp 1978): 19-2-103(6)

Connecticut General Statutes Annotated (Supp 1980): 46b-131, 132

Delaware Code Annotated (Interim Supp 1979): 933

District of Columbia Revised Code (Supp 1979): 16-2313(d), 16-2313(c)

Florida Statutes Annotated (West Supp 1979): 39.032(1), 39.032(4), 39.402(4)

Georgia Code Annotated (Supp 1979): 24A-1403(a)-(f)

Hawaii Revised Laws (Supp 1979): 571-32(d), 571-32(e), 571-32(h)

Idaho Code Annotated (Supp 1979): 16-1812A

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 702-8

Indiana Statutes Annotated (Burns, Supp 1979): 31-6-4-5

Iowa Code Annotated (West Supp 1979): 232,22

Kansas Statutes Annotated (Supp 1979): 38-819

Kentucky Revised Statutes (Supp 1979): 208.120, 208.010, 208.140

Louisiana Statutes Annotated (West Supp 1979): Article 41(A)

Maine Revised Statutes Annotated (West Supp 1979-80): Title 15-3203(7), 3501, 3203(4)

Maryland Code Annotated (Supp 1979): 3-815(d), 3-815(e)

Massachusetts General Laws Annotated (Supp 1979): 67, 68

Michigan Compiled Laws Annotated (Supp 1980): 712A.16

Minnesota Statutes Annotated (West Supp 1980): 260.173

Mississippi Code Annotated (Supp 1979): S.B. No. 2364, Art. 5 Section 39(1979)

Mississippi Annotated Statutes (Vernon's Supp 1980): 211.151, 219.071

Montana Code Annotated (Supp 1980): 41-5-306

Nebraska Revised Statutes (Supp 1979): 43-206.0

Nevada Revised Statutes (Supp 1979): 62.170(3), 62.170(5), 62.180(3)

New Hampshire Revised Statutes Annotated (Supp 1979): H.B. 831, ch. 361, 169-B:15 (1979)

New Jersey Statutes Annotated (West Supp 1979-80): 2A:4-57

New Mexico Statutes Annotated (Supp 1979): 13-14-23

New York Consolidated Laws (McKinney, Supp 1979-80): 720

North Carolina General Statutes Annotated (Supp 1979): 110-24, 7A-286(3)

North Dakota Century Code Annotated (Supp 1979): 27-20-16

Ohio Revised Code (Page Supp 1979): 2151.32, 2151.34

Oklahoma Statutes Annotated (West Supp 1979-80): 1107(c), 1116(d), 1116(e)

Oregon Revised Statutes (1979): 419.575

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 6327

Rhode Island General Laws Annotated (Supp 1979): 14-1-26

South Carolina Code Annotated (Supp 1978): 14-21-590(e)

South Dakota Compiled Laws Annotated (Supp 1979): 26-8-29

Tennessee Code Annotated (Supp 1979): 37-216

Texas Statutes Annotated (Vernon's Supp 1979): 51.12(a), 51.12(c), 51.12(e)

Utah Code Annotated (Supp 1979): 55-11a-1, 78-3a-30(3)

Vermont Statutes Annotated (Supp 1979): 642(c)

Virginia Code Annotated (Supp 1979): 16.1-249(B), 16.1-249(E)

Washington Revised Code Annotated (West Supp 1979): 13.04.115, 13.34.060(1)

West Virginia Code Annotated (Supp 1979): 49-5-16(a)

Wisconsin Statutes Annotated (West Supp 1979-80): 48.209

Wyoming Statutes Annotated (Supp 1979): 14-6-207

## APPENDIX I

## PROCEDURAL PROTECTIONS FOR JUVENILES IN THE JUVENILE JUSTICE SYSTEM

Alabama Code Annotated (Supp 1979): 12-15-53, 60, 63, 65, 66, 67, 74, 75, 120, Juvenile Protection Rules 11, 22

Alaska Statutes Annotated (Supp 1979): 47.10.030, 050, 070, 080, 140, Children's Rules of Procedure 10, 12, Alaska Const. Art. I-II

Arizona Revised Statutes Annotated (West Supp 1979-80): 8-225, 231, 234, 236 Juvenile Court Rules 3, 4, 5, 7, 10

Arkansas Revised Statutes Annotated: 45-413, 418, 421, 423, 428, 429, 440

California Annotated Codes (West Supp 1980): Welfare & Institutions, 625, 632, 633, 658, 659, 677, 702.5, 800

Colorado Revised Statutes (Supp 1978): 19-1-106, 107, 108, 112; 19-2-102, 103; 19-3-103, 106, 109, 117

Connecticut General Statutes Annotated (Supp 1980): 46b-128, 131, 135, 136, 137, 138

Delaware Code Annotated (Interim Supp 1979): 10-934, 935,960; Family Court Rule 60, 120, 210, 230, 240, 320

District of Columbia Revised Code (Supp 1979): 16-2304, 2306, 2312, 2316, 2317, 2327, 2329

Florida Statutes Annotated (West Supp 1979): 39.06, .09, .11, .032, .071

Georgia Code Annotated (Supp 1979): 24A-1402, 1404, 1501, 1701, 1801, 2001, 2002, 2201, 2801, 3801

Guam: Government Codes of the Territory (Supp 1974): Code Civil Procedure 257, 262, 272

Hawaii Revised Laws (Supp 1979): 571.23, 32, 41, 50, 54

Idaho Code Annotated (Supp 1979): 16-1808, 1809A, 1811, 1819

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 37.701-20, 703-5, 704-2, 704-3, 704-6, 705-1, 705-3

Indiana Statutes Annotated (Burns, Supp 1979): 31-6-3-1, 31-6-4-5, 7, 14, 16, 19; 31-6-7-1, 2, 4, 17

Iowa Code Annotated (West Supp 1979): 232.11, .37, .41, .44, .47, .50, .54, .133

Kansas Statutes Annotated (Supp 1979): 38-808, 813, 815, 817, 829b, 834, 839

Kentucky Revised Statutes (Supp 1979): 208.060, .080, .196, .192, .200

Louisiana Statutes Annotated (West Supp 1979): Code of Juvenile Procedure Article 23, 28, 51, 67, 70, 71, 80, 95, 98, 102

Maine Revised Statutes Annotated (West Supp 1979-80): 15-3203, 3304, 3306, 3307, 3314A, 3310, 3402, 3404

Maryland Code Annotated (Supp 1979): 3-815, 819, 820, 821; 12-301, Maryland Rules 904, 906, 910, 914, 916

Massachusetts General Laws Annotated (Supp 1979): 119-55, 56, 58, 59, 67, 68

Michigan Compiled Laws Annotated (Supp 1980): 712A.12, .17, .22

Minnesota Statutes Annotated (West Supp 1980): Juvenile Court Rules 1-3, 202, 203, 201, 6-1, 260.135, .155, .172, .291

Mississippi Code Annotated (Supp 1979): 43-21-201, 203, 309, 503, 557, 601, 613, 651

Missouri Annotated Statutes (Vernon's Supp 1980): Rules of Court 111.07, 115.07, 116.01, 117.04; 211.101, .171, .181, .261

Montana Code Annotated (Supp 1980): 10-1216, 1218, 1220, 1221, 1225, 1226, 1228

Nebraska Revised Statutes (Supp 1979): 43-205.04, 205.06, 206.03, 210

Nevada Revised Statutes (Supp 1979): 62.140, .170, .193, .195, .280

New Hampshire Revised Statutes Annotated (Supp 1979): 169-B:7, 12, 13, 16, 29

New Jersey Statutes Annotated (West Supp 1979-80): 2A:4-40, 58, 59; Rules of Court 5:3-3, 304, 8-4, 8-9, 8-6(d), 8-9, 9; 5:3-81-1

New Mexico Statutes Annotated (Supp 1979): 32-1-20, 26, 27, 28, 31, 39, 40, 43

New York Consolidated Laws (McKinney, Supp 1979-80): Family Court Act 728, 736, 741, 746, 779, 1111, 1120

North Carolina General Statutes Annotated (Supp 1979): 7A-577, 584, 595, 631, 634, 636, 656, 666

North Dakota Century Code Annotated (Supp 1979): 27-20-17, 18, 22, 24, 26, 27, 29, 37, 56

Ohio Revised Code (Page Supp 1979): 2151.28, .35, .314, .352; Rules of Juvenile Procedure 22, 29, 34, 35

Oklahoma Statutes Annotated (West Supp 1979-80): 10-1104, 1107, 1109, 1110, 1111, 1115, 1123

Oregon Revised Statutes (1979): 419.486, .498, .529, .561, .565, .577

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 42-6332, 6333, 6335, 6336, 6337, 6338, 6341, 6553, 42-742

Puerto Rico Laws Annotated (Supp 1978): 34-2009, 2013, 2014; Rules of Procedure for Minors 6.1, 8.3

Rhode Island General Laws Annotated (Supp 1979): 14-1, 16, 17, 31, 42, 52

South Carolina Code Annotated (Supp 1978): 43-17-10, 43-17-90, 14-21-560, 14-21-610

South Dakota Compiled Laws Annotated (Supp 1979): 15-26-1, 26-8-13, 21, 19.2, 22.1, 22.2, 22.10, 30, 32.1, 61

Tennessee Code Annotated (Supp 1979): 37-217, 218, 221, 224, 226, 227, 229, 238, 258

Texas Statutes Annotated (Vernon's Supp 1979): Family Code 51.09, 51.10, 53.05, 53.06, 53.07, 54.01, 54.03, 54.04, 54.05, 54.09, 56.01

Utah Code Annotated (Supp 1979): 78-3a-22, 26, 30, 35, 51

Vermont Statutes Annotated (Supp 1979): 33-641, 643, 647, 650, 651, 652, 654, 659

Virginia Code Annotated (Supp 1979): 16.1-250, 263, 265, 266, 289, 296

Virgin Islands Code (Supp 1979): 5-2505, Juvenile and Domestic Relations Rules 84, 86, 94, 97

Washington Revised Code Annotated (West Supp 1979): 13.40.040, .050, .130, .140, .150, .200, .230

West Virginia Code Annotated (Supp 1979): 49-5-1, 6, 7, 8, 13, 14

Wisconsin Statutes Annotated (West Supp 1979-80): Children's Code 48.21, .23, .31, .47, .243, .255, .297, .317, .335, .363

Wyoming Statutes Annotated (Supp 1979): 14-8-110, 114, 123, 124, 125, 127, 133, 134, 14-10-110

# APPENDIX J

## COMPULSORY EDUCATION

Alabama Code Annotated (Supp 1979): 16-28-1 to 16-28-23

Alaska Statutes Annotated (Supp 1979): 14.30.010 to 14.30.050

Arizona Revised Statutes Annotated (West Supp 1979-80): 15-301 to 15-307, 15-321 to 15-329

Arkansas Revised Statutes Annotated: 80-1501 to 80-1547

California Annotated Codes (West Supp 1980): Education 48200 to 48324, 48050 to 48053

Colorado Revised Statutes (Supp 1978): 22-33-101 to 22-33-109, 22-32-115 to 22-32-116

Connecticut General Statutes Annotated (Supp 1980): 10-184 to 10-202

Delaware Code Annotated (Interim Supp 1979): 14-2701 to 14-2710, 14-2712, 14-601 to 14-606

District of Columbia Revised Code (Supp 1979): 31-201 to 31-213, 31-307 to 31-309

Florida Statutes Annotated (West Supp 1979): 232.01 to 232.10, 232.12, 228.151

Georgia Code Annotated (Supp 1979): 32-2101 to 32-2119

Guam: Government Codes of the Territory (Supp 1974): Ch. V, 11401

Hawaii Revised Laws (Supp 1979): 298-1 to 298-26

Idaho Code Annotated (Supp 1979): 33-201 to 33-208

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 26-1 to 26-12, 10-20.12a, 12-20 to 12.22

Indiana Statutes Annotated (Burns, Supp 1979): 20-8.1-3-1 to 20-8.1-3-26, 20-8.1-6-1 to 20-8.1-6-24, 20-8.1-3-28 to 20-8.1-3-37, 20-8.1-4-1 to 20-8.1-4-31, 20-8.1-5-1 to 20-8.5-5-8

Iowa Code Annotated (West Supp 1979): 282.1 to 282.27, 299.1 to 299.24

Kansas Statutes Annotated (Supp 1979): 72-1101 to 72-1116, 72-1046, 72-1046a, 72-7201 to 72-7208

Kentucky Revised Statutes (Supp 1979): 158.010 to 158.990

Louisiana Statutes Annotated (West Supp 1979): R.S. 17:221 to 17:223, 17:105

Maine Revised Statutes Annotated (West Supp 1979-80): Title 20, 911 to 918, 931 to 934

Maryland Code Annotated (Supp 1979): 7-301, 4-120

Massachusetts General Laws Annotated (Supp 1979): 76-1 to 76-20

Michigan Compiled Laws Annotated (Supp 1980): 380.1561 to 380.1599, 390.501 to 390.506

Minnesota Statutes Annotated (West Supp 1980): 120.06 to 120.17

Mississippi Code Annotated (Supp 1979): 37-13-91 to 37-13-105, 37-103-7, 37-15-19 to 37-15-31

Missouri Annotated Statutes (Vernon's Supp 1980): 167.011 to 167.171

Montana Code Annotated (Supp 1980): 75-6301 to 75-6323

Nebraska Revised Statutes (Supp 1979): 79-201.01 to 79-202.01, 79-216, 79-4-102 to 79-4-104

Nevada Revised Statutes (Supp 1979): Title 34 392.040 to 392-220, 392.420 to 392.480

New Hampshire Revised Statutes Annotated (Supp 1979): 193:1 to 193:26

New Jersey Statutes Annotated (West Supp 1979-80): 18A:38-1 to 18A:38-7, 18A:38-8 to 18A:38-24, 18A:38-25 to 18A:38-31

New Mexico Statutes Annotated (Supp 1979): 22-12-1 to 22-12-7

New York Consolidated Laws (McKinney, Supp 1979-80): Education Law 3201 to 3234

North Carolina General Statutes Annotated (Supp 1979): Article 20, 115-166 to 115-175; Article 19, 115-162 to 115-1651

North Dakota Century Code Annotated (Supp 1979): 15-34.1-01 to 15.34.1-05

Ohio Revised Code (Page Supp 1979): 3321.01 to 3321.05, 3321.07 to 3321.13, 3317.08

Oklahoma Statutes Annotated (West Supp 1979-80): 70-10-105 to 70-1-114

Oregon Revised Statutes (1979): 339.005 to 339.990

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): Title 24, 13-1301 to 13-1394

Puerto Rico Laws Annotated (Supp 1978): Title 18, 80

Rhode Island General Laws Annotated (Supp 1979): 16-19-1 to 16-19-9

South Carolina Code Annotated (Supp 1978): 59-65-10 to 59-65-80

South Dakota Compiled Laws Annotated (Supp 1979): 13-27-1 to 13-27-28, 13-28-1 to 13-28-18, 13-28-19 to 13-28-35

Tennessee Code Annotated (Supp 1979): 49-1701 to 49-1777

Texas Statutes Annotated (Vernon's Supp 1979): 21.031 to 21.040

Utah Code Annotated (Supp 1979): 53-24-1 to 53-24-9, 52-26-1 to 53-26-7, 53-27-1 to 53-27-9

Virginia Code Annotated (Supp 1979): 22-2751.1 to 22-275.23, 22-218 to 22-230, 22-231.1

Virgin Islands Code (Supp 1979): Title 1782

Washington Revised Code Annotated (West Supp 1979): 28A.27.010 to 28A.27.310

West Virginia Code Annotated (Supp 1979): 18-8-1 to 18-8-10, 18-5-16

Wisconsin Statutes Annotated (West Supp 1979-80): 118.15 to 118.16, 121.77 to 121.82, 121.84

Wyoming Statutes Annotated (Supp 1979): 21-4-101 to 21-4-107, 21-4-301 to 21-4-308, 21-4-501 to 21-4-505

## APPENDIX F

## CHILD'S VOICE IN CUSTODY DECISIONS

Alabama Code Annotated (Supp 1979):
Adoption: 26-10-3
Divorce: 30-3-1
Guardianship: 26-2-21

Alaska Statutes Annotated (Supp 1979):
Adoption: 20.15.040
Divorce: 09.55.205
Guardianship: 13.26.040 to 13.26.055

Arizona Revised Statutes Annotated (West Supp 1979-80):
Adoption: 8-106
Divorce: 25-332
Guardianship: 14-5203, 14-5206

Arkansas Revised Statutes Annotated:
Adoption: 56-206
Divorce: 25-332
Guardianship: 57-608

California Annotated Codes (West Supp 1980):
Adoption: Civil Code 225
Divorce: Civil Code 4600
Guardianship: Probate Code 1406

Colorado Revised Statutes (Supp 1978):
Adoption: 19-4-107
Divorce: 14-10-124
Guardianship: 15-14-203, 15-14-206

Connecticut General Statutes Annotated (Supp 1980):
Adoption: 45-61
Divorce: 46b-56
Guardianship: 45-46

Delaware Code Annotated (Interim Supp 1979):
Adoption: 13-907
Divorce: 13-722
Guardianship: 12-3902

District of Columbia Revised Code (Supp 1979):
Adoption: 16-304
Divorce: 16-914
Guardianship: 21-108

Florida Statutes Annotated (West Supp 1979):
Adoption: 63.062
Divorce: 61.13
Guardianship: 744.312

Georgia Code Annotated (Supp 1979):
Adoption: 74-403
Divorce: 74-107
Guardianship: 49-105

Guam: Government Codes of the Territory (Supp 1974):
Adoption: Civil Code 225
Divorce: Civil Code 138.1
Guardianship: Civil Code 246

Hawaii Revised Laws (Supp 1979):
Adoption: 578-2
Divorce: 571-46
Guardianship: 560:5-206

Idaho Code Annotated (Supp 1979):
Adoption: 16-1505
Divorce: 32-705
Guardianship: 15-5-203, 15-5-206

Illinois Statutes Annotated (Smith-Hurd, Supp 1979):
Adoption: 4-9.1-12
Divorce: 40-602
Guardianship: 110-1/2-11-5

Indiana Statutes Annotated (Burns, Supp 1979):
Adoption: 31-3-1-6
Divorce: 31-1-11.5-21
Guardianship: 29-1-18-10

Iowa Code Annotated (West Supp 1979):
Adoption: 600.7
Divorce: 598.21
Guardianship: 633.557

Kansas Statutes Annotated (Supp 1979):
Adoption: 59.2102
Divorce: 60-1610
Guardianship: 59-3014

Kentucky Revised Statutes (Supp 1979):
Adoption: 199.500
Divorce: 403.270
Guardianship: 387.050

Louisiana Statutes Annotated (West Supp 1979):
Adoption: 9-422.1
Divorce: Civil Code Art. 147
Guardianship: Civil Code 263

Maine Revised Statutes Annotated (West Supp 1979-80):
Adoption: 19-532
Divorce: 19-752
Guardianship: 18-3552, 18A-5-203, 18A-5-206 (effective 1/1/81)

Maryland Code Annotated (Supp 1979):
Adoption: 16-74
Divorce: 16-25
Guardianship: E.T. 13-702

Massachusetts General Laws Annotated (Supp 1979):
Adoption: 210-2
Divorce: 208-28
Guardianship: 201-2

Michigan Compiled Laws Annotated (Supp 1980):
Adoption: M.C.L. 710.43
Divorce: 25.312(3)
Guardianship: 27.5424, 27.5426

Minnesota Statutes Annotated (West Supp 1980):
Adoption: 259.24
Divorce: 518.17
Guardianship: 525.541

Mississippi Code Annotated (Supp 1979):
Adoption: 93-17-5
Divorce: 93-11-65
Guardianship: 93-13-13

Missouri Annotated Statutes (Vernon's Supp 1980):
Adoption: 543.030
Divorce: 452.375
Guardianship: 475.045

Montana Code Annotated (Supp 1980):
Adoption: 61-205
Divorce: 48-332
Guardianship: 91A-5-203, 91A-5-206

Nebraska Revised Statutes (Supp 1979):
Adoption: 43-104
Divorce: 42-364
Guardianship: 30-2601, 30-2610

Nevada Revised Statutes (Supp 1979):
Adoption: 127.020
Divorce: 125.140
Guardianship: 159.061

New Hampshire Statutes Annotated (Supp 1979):
Adoption: 170-B:5
Divorce: 458:17
Guardianship: 463:11

New Jersey Statutes Annotated (West Supp 1979-80):
Adoption: 9.3-49
Divorce: 9.2-4
Guardianship: 3A:6-28

New Mexico Statutes Annotated (Supp 1979):
Adoption: 40-7-6
Divorce: 40-4-9
Guardianship: 45-5-203, 45-5-206

New York Consolidated Laws (McKinney, Supp 1979-80):
Adoption: Domestic Relations Law 111
Divorce: Domestic Relations Law 240
Guardianship: SCPA 1703

North Carolina General Statutes Annotated (Supp 1979):
Adoption: 48-10
Divorce: 50-13.2
Guardianship: 33-1

North Dakota Century Code Annotated (Supp 1979):
Adoption: 14-15-05
Divorce: 14-05-22
Guardianship: 30.1-27-03 (5-203), 30.1-27-06 (5-206)

Ohio Revised Code (Page Supp 1979):
Adoption: 3107.06
Divorce: 3109.04
Guardianship: 2111.12

Oklahoma Statutes Annotated (West Supp 1979-80):
Adoption: 10-60.11
Divorce: 12-1277.1
Guardianship: 58-672

Oregon Revised Statutes (1979):
Adoption: 109.328
Divorce: 107.137
Guardianship: 126.035

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80):
Adoption: 1-411
Divorce: 23-55
Guardianship: 20-711

Puerto Rico Laws Annotated (Supp 1978):
Adoption: 31-536
Divorce: 31-383
Guardianship: 31-701

Rhode Island General Laws Annotated (Supp 1979):
Adoption: 15-7-5
Divorce: 15-5-16
Guardianship: 33-15-4

South Carolina Code Annotated (Supp 1978):
Adoption: 15-45-50
Divorce: 20-3-160
Guardianship: 21-19-100

South Dakota Compiled Laws Annotated (Supp 1979):
Adoption: 15-45-50
Divorce: 20-3-160
Guardianship: 21-19-100

Tennessee Code Annotated (Supp 1979):
Adoption: 36-115
Divorce: 36-828
Guardianship: 34-203

Texas Statutes Annotated (Vernon's Supp 1979):
Adoption: Civil Statutes Art. 46a-6
Divorce: Family Code 14.07
Guardianship: Probate Code 118

Utah Code Annotated (Supp 1979):
Adoption: 78-30-6
Divorce: 30-3-10, 30-3-5
Guardianship: 75-5-203, 75-5-206

Vermont Statutes Annotated (Supp 1979):
Adoption: 15-435
Divorce: 15-557
Guardianship: 14-2650, 14-2652

Virginia Code Annotated (Supp 1979):
Adoption: 63.1-225
Divorce: 20-107
Guardianship: 31-5

Virgin Islands Code (Supp 1979):
Adoption: 16-144
Divorce: 16-109
Guardianship: 15-822

Washington Revised Code Annotated (West Supp 1979):
Adoption: 26.32.030
Divorce: 26.09.190
Guardianship: 11.88.040

West Virginia Code Annotated (Supp 1979):
Adoption: 48-4-1
Divorce: 48-2-15
Guardianship: 44-10-4

Wisconsin Statutes Annotated (West Supp 1979-80):
Adoption: 48-84
Divorce: 247.24
Guardianship: 880.09, 880.16

Wyoming Statutes Annotated (Supp 1979):
Adoption: 1-22-109
Divorce: 20-2-113
Guardianship: 3-2-102, 3-2-104

# APPENDIX L

## STATE PLANS FOR AID TO FAMILIES WITH DEPENDENT CHILDREN - ELIGIBILITY STATUTES

Alabama Code Annotated (Supp 1979): 38-4-1(d)

Alaska Statutes Annotated (Supp 1979): 47.10.142

Arizona Revised Statutes Annotated (West Supp 1979-80): 46-101.4

Arkansas Revised Statutes Annotated: 83-127

California Welfare and Institutions Annotated Codes (West Supp 1980): 112.53

Colorado Revised Statutes (Supp 1978): 19-101

Connecticut General Statutes Annotated (Supp 1980): 17-32

Delaware Code Annotated (Interim Supp 1979): 31-301

District of Columbia Revised Code (Supp 1979): 32-752

Florida Statutes Annotated (West Supp 1979): 39-01

Georgia Code Annotated (Supp 1979): 99-903

Guam: Government Codes of the Territory (Supp 1974): 9115

Hawaii Revised Laws (Supp 1979): 346-55

Idaho Code Annotated (Supp 1979): 56-209

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 23-4-1.1

Indiana Statutes Annotated (Burns, Supp 1979): 12-1-7-1

Iowa Code Annotated (West Supp 1979): 232.2

Kansas Statutes Annotated (Supp 1979): 39-702

Kentucky Revised Statutes (Supp 1979): 200.340

Louisiana Statutes Annotated (West Supp 1979): 46-231

Maine Revised Statutes Annotated (West Supp 1979-80): 22-3701

Maryland Code Annotated (Supp 1979): 88A-45

Massachusetts General Laws Annotated (Supp 1979): 119-21

Michigan Compiled Laws Annotated (Supp 1980): 400.56

Minnesota Statutes Annotated (West Supp 1980): 256.77

Mississippi Code Annotated (Supp 1979): 43-17-3

Missouri Annotated Statutes (Vernon's Supp 1980): 208.040

Montana Code Annotated (Supp 1980): 41-3-102

Nebraska Revised Statutes (Supp 1979): 43-504

Nevada Revised Statutes (Supp 1979): 422-270

New Hampshire Revised Statutes Annotated (Supp 1979): 169:2

New Jersey Statutes Annotated (West Supp 1979-80): 9:17B-3

New Mexico Statutes Annotated (Supp 1979): 27-2-6

New York Consolidated Laws (McKinney, Supp 1979-80): Social Services Section 398

North Carolina General Statutes Annotated (Supp 1979): 1108.39

North Dakota Century Code Annotated (Supp 1979): 50-09-01

Ohio Revised Code (Page Supp 1979): 2151.04

Oklahoma Statutes Annotated (West Supp 1979-80): 10-1101A

Oregon Revised Statutes (1979): 118.070

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 11-269

Puerto Rico Laws Annotated (Supp 1978): 3-194

Rhode Island General Laws Annotated (Supp 1979): 40-6-5

South Carolina Code Annotated (Supp 1978): 43-9-10

South Dakota Compiled Laws Annotated (Supp 1979): 26-8-1

Tennessee Code Annotated (Supp 1979): 37-202

Texas Statutes Annotated (Vernon's Supp 1979): 695C-17

Utah Code Annotated (Supp 1979): 17-13-4

Vermont Statutes Annotated (Supp 1979): 33-2711

Virginia Code Annotated (Supp 1979): 63.1-195

Virgin Islands Code (Supp 1979): 384(b)(11)

Washington Revised Code Annotated (West Supp 1979): 13.04.010

West Virginia Code Annotated (Supp 1979): 49-1-2

Wisconsin Statutes Annotated (West Supp 1979-80): 49.19

Wyoming Statutes Annotated (Supp 1979): 42-1-102

## APPENDIX M

## DRUG AND ALCOHOL ABUSE PROGRAMS

Alabama Code Annotated (Supp 1979): 22-8-6

Alaska Statutes Annotated (Supp 1979): 47-37-010 to 47-37-270,
44-29-100 to 44-29-150

Arizona Revised Statutes Annotated (West Supp 1979-80): 36-2001 to 36-2052

Arkansas Revised Statutes Annotated: 82-2101 to 82-2136

California Annotated Codes (West Supp 1980): Health & Safety 11750 to 11993

Colorado Revised Statutes (Supp 1978): 25-1-203 to 25-1-316, 12-22-304

Connecticut General Statutes Annotated (Supp 1980): 17-1551 to 17-155M,
17-155p to 17-155z, 17-176

Delaware Code Annotated (Interim Supp 1979): 2201 to 2218, 4801 to 4815

District of Columbia Revised Code (Supp 1979): 24-524 to 24-534,
24-601 to 24-613

Florida Statutes Annotated (West Supp 1979): 396.012 to 396.105,
396.052 to 397.20

Georgia Code Annotated (Supp 1979): 84-6301 to 84-6319, 99-3901 to 99-3921

Guam: Government Codes of the Territory (Supp 1974): 49230 to 49239

Hawaii Revised Laws (Supp 1979): 321-191 to 321-197, 577-26

Idaho Code Annotated (Supp 1979): 37-2747, 39-301 to 39-311

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 9112 - 120.5-8 to
120.14, 91112 - 501 to 521

Indiana Statutes Annotated (Burns, Supp 1979): 16-13-6.1-23 to 16-13-6.1,
16-13-6.1-30

Iowa Code Annotated (West Supp 1979): 125.1 to 125.57

Kansas Statutes Annotated (Supp 1979): 65.4011, 65-4025 to 65-4033, 75-5377

Kentucky Revised Statutes (Supp 1979): 222.210 to 222.310, 222.410 to 222.990

Louisiana Statutes Annotated (West Supp 1979): 40-992, 40-1052, 40-2008.4, 17-262, 28-50

Maine Revised Statutes Annotated (West Supp 1979-80): 22-7101 to 22-7124, 22-1351 to 22-1355

Maryland Code Annotated (Supp 1979): Article 43B-1 to 43B-7, Article 2C-201A, 312.401, Article 43-135

Massachusetts General Laws Annotated (Supp 1979): 123-39 to 123-43, 111B-1 to 111B-10

Michigan Compiled Laws Annotated (Supp 1980): 380.1170, 333.7541, 333.6101 to 333.6523, 330.1116

Minnesota Statutes Annotated (West Supp 1980): 254A.01 to 254A.16

Mississippi Code Annotated (Supp 1979): 41-30-1 to 41-30-39, 41-41-14

Missouri Annotated Statutes (Vernon's Supp 1980): 195.300, 195.500 to 195.545, 202.010, 202.022

Montana Code Annotated (Supp 1980): 80-2701 to 80-2725, 34-20A-1 to 34-20A-97, 34-20B-102 to 34-20B-106

Nebraska Revised Statutes (Supp 1979): 41-30-1 to 41-30-39, 41-31-1 to 41-31-23, 41-41-14, 71-5016

Nevada Revised Statutes (Supp 1979): 453.291, 458.010 to 458.350, 129.050

New Hampshire Revised Statutes Annotated (Supp 1979): 172:1 to 172:14, 172-B:1 to 172-B:5

New Jersey Statutes Annotated (West Supp 1979-80): 26:26-1 to 26:26-37, 26:2B-1 to 26:2B-31

New Mexico Statutes Annotated (Supp 1979): 22-13.2, 43-2-1 to 43-2-22, 43-3-1 to 43-3-6, 26-2-1 to 26-2-14

New York Consolidated Laws (McKinney, Supp 1979-80): 19.03 to 19.21

North Carolina General Statutes Annotated (Supp 1979): 143-475.1, 122-35-13 to 122-35-26, 115-37

North Dakota Century Code Annotated (Supp 1979): 25-03.1-02 to 25-03.1-42, 14-10-17, 14-10-17, 14-10-17.1, 19-03.139

Ohio Revised Code (Page Supp 1979): 3719.012, 3719.61, 5122.50, 5122.54, 3720.01 to 3720.08

Oklahoma Statutes Annotated (West Supp 1979-80): 74-3907, 70-1210.221 to 70-1210.228, 43-651 to 43-658, 63-2100 to 63-2144

Oregon Revised Statutes (1979): 430.260 to 430.425

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 24-5311, 71-1690.103 to 1690.113

Puerto Rico Laws Annotated (Supp 1978): Title 3 401 to 401X

Rhode Island General Laws Annotated (Supp 1979): 40.1-4-1 to 40.1-4-19, 21-28.2-12 to 21-28.1-22

South Carolina Code Annotated (Supp 1978): 44-51-10 to 44-51-250, 44-51-410 to 44-51-490, 59-29-40

South Dakota Compiled Laws Annotated (Supp 1979): 34-20A-1 to 34-20A-97, 34-20B-102 to 34-20B-106

Tennessee Code Annotated (Supp 1979): 33-801 to 33-815

Texas Statutes Annotated (Vernon's Supp 1979): 4476-15a-101 to 4476-15a-703, 5561c-1, 5561cc

Utah Code Annotated (Supp 1979): 63-43-8 to 63-43-8.1 to 63-43-8.3

Vermont Statutes Annotated (Supp 1979): Title 18 9141 to 9144, Title 18 4226

Virginia Code Annotated (Supp 1979): 37.1 to 37.1-13, 37.1-217 to 37.1-222, 37.1-207 to 37.1-208

Virgin Islands Code (Supp 1979): Title 19 710

Washington Revised Code Annotated (West Supp 1979): 70.96A.010 to 70.96A.930, 69.54.010 to 69.54.090

West Virginia Code Annotated (Supp 1979): 27-1-4, 27-1-11

Wisconsin Statutes Annotated (West Supp 1979-80): 51.01 to 51.45, 140.81

Wyoming Statutes Annotated (Supp 1979): 35-7-1052, 9-3-105

## APPENDIX N

## CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

Alabama Code Annotated (Supp 1979): 26-14-1 to 26-14-13

Alaska Statutes Annotated (Supp 1979): 47.17.010 to 47.17.070

Arizona Revised Statutes Annotated (West Supp 1979/80): 13-3620

Arkansas Revised Statutes Annotated: 42-807 to 42-818

California Annotated Codes (West Supp 1980): Penal Code 11161.5

Colorado Revised Statutes (Supp 1978): None

Connecticut General Statutes Annotated (Supp 1980): 17-38a

Delaware Code Annotated (Interim Supp 1979): 16-901 to 16-909

District of Columbia Revised Codes (Supp 1979): 36-2101 to 36-2111

Florida Statutes Annotated (West Supp 1979): Title XLIV 827.07

Georgia Code Annotated (Supp 1979): 74-111

Hawaii Revised Laws (Supp 1979): 350-1 to 350-5

Idaho Code Annotated (Supp 1979): 16-1601 to 16-1620

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 23-2051 to 23-2061

Indiana Statutes Annotated (Burns, Supp 1979): 31-6-11-1 to 31-6-11-21

Iowa Code Annotated (West Supp 1979): 235A.9 to 235A.24

Kansas Statutes Annotated (Supp 1979): 38-716 to 38-724

Kentucky Revised Statutes (Supp 1979): 199.335

Louisiana Statutes Annotated (West Supp 1979): 14:403

Maine Revised Statutes Annotated (West Supp 1979/80): Title 22, 3851 to 3861, 3891A to 3891F

Maryland Code Annotated (Supp 1979): Art. 27, 35A

Massachusetts General Laws Annotated (Supp 1979): Chapter 119, 51A-51F

Michigan Compiled Laws Annotated (Supp 1980): 722.621-722.634

Minnesota Statutes Annotated (West Supp 1980): 626.556

Mississippi Code Annotated (Supp 1979): 43-23-9

Missouri Annotated Statutes (Vernon's Supp 1980): 210.110 to 210.165

Montana Code Annotated (Supp 1980): 41-3-201 to 41-3-208

Nebraska Revised Statutes (Supp 1979): 28-710 to 28-727

Nevada Revised Statutes (Supp 1979): 200.501 to 200.507

New Hampshire Revised Statutes Annotated (Supp 1979): 169:37 to 169:44

New Jersey Statutes Annotated (West Supp 1979/80): 9:6-8.1 to 9:6-8.20

New Mexico Statutes Annotated (Supp 1979): 32-1-15

New York Consolidated Laws (McKinney, Supp 1979-80): Social Services 411-428

North Carolina General Statutes Annotated (Supp 1979): 7A-542 to 7A-552

North Dakota Century Code Annotated (Supp 1979): 50-25.1-01 to 50-25.1-14

Ohio Revised Code (Page Supp 1979): 2151.421

Oklahoma Statutes Annotated (West Supp 1979/80): Title 845-848

Oregon Revised Statutes (1979): 418.740 to 418.775

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): Title 11 2201-2204

Rhode Island General Laws Annotated (Supp 1979): 40-11-1 to 40-11-16

South Carolina Code Annotated (Supp 1978): 20-10-10 to 26-10-110

South Dakota Compiled Laws Annotated (Supp 1979): 26-10-10 to 26-10-15

Tennessee Code Annotated (Supp 1979): 37-1201 to 37-1212

Texas Statutes Annotated (Vernon's Supp 1979): 34.01 to 34.08

Utah Code Annotated (Supp 1979): 78-3b-1 to 78-3b-13

Vermont Statutes Annotated (Supp 1979): 1351 to 1356

Virginia Code Annotated (Supp 1979): 63.1-248.1 to 63.1-248.17

Virgin Islands Code (Supp 1979): Title 19 171-183

Washington Revised Code Annotated (West Supp 1979): 26.44.010 to 26.44.900

West Virginia Code Annotated (Supp 1979): 49-6A-1 to 49-6A-10

Wisconsin Statutes Annotated (West Supp 1979/80): 48.981

Wyoming Statutes Annotated (Supp 1979): 14-3-201 to 14-3-215

# APPENDIX O

## STATUTORY RAPE LAWS

Alabama Code Annotated (Supp 1979): 13-1-133, 13-1-134

Alaska Statutes Annotated (Supp 1979): 11.15.120

Arizona Revised Statutes Annotated (West Supp 1979/80): 13-1405

Arkansas Revised Statutes Annotated: 41-1803, 41-1804, 41-1808

California Annotated Codes (West Supp 1980): Penal Code 161.5

Colorado Revised Statutes (Supp 1978): 18-3-404, 18-3-405

Connecticut General Statutes Annotated (Supp 1980): 53a-71

Delaware Code Annotated (Interim Supp 1979): 11-767

District of Columbia Revised Code (Supp 1979): 22-2801

Florida Statutes Annotated (West Supp 1979): 794.011

Georgia Code Annotated (Supp 1979): 26-2001

Hawaii Revised Laws (Supp 1979): 768

Idaho Code Annotated (Supp 1979): 18-6101

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 38-11-4

Indiana Statutes Annotated (Burns, Supp 1979): 35-42-4-3

Iowa Code Annotated (West Supp 1979): 709-3

Kansas Statutes Annotated (Supp 1979): 21-3503

Kentucky Revised Statutes (Supp 1979): 510.040

Louisiana Statutes Annotated (West Supp 1979): 14:43

Maine Revised Statutes Annotated (West Supp 1979/80): 17A-254, 17A-255

Maryland Code Annotated (Supp 1979): 27-463, 27-464A, 27-464C

Massachusetts General Laws Annotated (Supp 1979): 265-22A, 265-23

Michigan Compiled Laws Annotated (Supp 1980): 28.788

Minnesota Statutes Annotated (West Supp 1980): 609.342 to 609.345

Mississippi Code Annotated (Supp 1979): 97-3-65, 97-3-67

Missouri Annotated Statutes (Vernon's Supp 1980): 566.030, 566.040, 566.050, 566.090

Montana Code Annotated (Supp 1980): 94-5-502

Nebraska Revised Statutes (Supp 1979): 28.408.03

Nevada Revised Statutes (Supp 1979): 200.364, 200.368

New Hampshire Revised Statutes Annotated (Supp 1979): 632-A-4

New Jersey Statutes Annotated (West Supp 1979/80): 2C:14-2

New Mexico Statutes Annotated (Supp 1979): 30-9-11, 30-9-13

New York Consolidated Laws (McKinney, Supp 1979-80): Penal Code 130.35, 130.30, 130.21

North Carolina General Statutes Annotated (Supp 1979): 14-27-2, 14-24-4

North Dakota Century Code Annotated (Supp 1979): 12.1-20-03, 12.1-20-05, 12.1-20-07

Ohio Revised Code (Page Supp 1979): 2907.02, 2907.04

Oklahoma Statutes Annotated (West Supp 1979/80): 21-1111, 21-1114

Oregon Revised Statutes (1979): 163.355, 163.365, 163.375, 163.415, 163.425, 163.435

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 18-3122

Rhode Island General Laws Annotated (Supp 1979): 11-37-2

South Carolina Code Annotated (Supp 1978): 16-3-655

South Dakota Compiled Laws Annotated (Supp 1979): 22-22-1, 22-22-7

Tennessee Code Annotated (Supp 1979): 39-3703, 39-3705

Texas Statutes Annotated (Vernon's Supp 1979): Penal Code 21.09

Utah Code Annotated (Supp 1979): 76-5-401, 76-5-402

Vermont Statutes Annotated (Supp 1979): 13-3252

Virginia Code Annotated (Supp 1979): 18.2-61, 18.2-63

Washington Revised Code Annotated (West Supp 1979): 9A.44.070, 9A.44.080, 9A.44.090

West Virginia Code Annotated (Supp 1979): 61-8B-3, 61-8B-8, 61-8B-5, 61-8B-6

Wyoming Statutes Annotated (Supp 1979): 6-63.4, 6-63.5

## APPENDIX P

## CONTRIBUTING TO THE DELINQUENCY OF A MINOR

Alabama Code Annotated (Supp 1979): 12-15-13

Alaska Statutes Annotated (Supp 1979): 11.40.130

Arizona Revised Statutes Annotated (West Supp 1979/80): 13-3612

Arkansas Revised Statutes Annotated: 45-445

California Annotated Codes (West Supp 1980): Penal Code 272

Colorado Revised Statutes (Supp 1978): 19-1-101

Connecticut General Statutes Annotated (Supp 1980): 53-21

Delaware Code Annotated (Interim Supp 1979): 11-1102

District of Columbia Revised Code (Supp 1979): 16-2314

Florida Statutes Annotated (West Supp 1979): 829.04

Georgia Code Annotated (Supp 1979): 24-9904.1

Hawaii Revised Laws (Supp 1979): 577.8

Idaho Code Annotated (Supp 1979): 16-1817

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 23-2361

Indiana Statutes Annotated (Burns, Supp 1979): 35-46-1-8

Iowa Code Annotated (West Supp 1979): 233.1

Kansas Statutes Annotated (Supp 1979): 38-808

Kentucky Revised Statutes (Supp 1979): 208.020

Louisiana Statutes Annotated (West Supp 1979): 14:92

Maine Revised Statutes Annotated (West Supp 1979/80): 17A-554

Maryland Code Annotated (Supp 1979): 3-831

Massachusetts General Laws Annotated (Supp 1979): 119:63

Michigan Compiled Laws Annotated (Supp 1980): 28-340

Minnesota Statutes Annotated (West Supp 1980): 260-315

Mississippi Code Annotated (Supp 1979): 43-23-25

Missouri Annotated Statutes (Vernon's Supp 1980): 568.050

Montana Code Annotated (Supp 1980): 94-5-607

Nebraska Revised Statutes (Supp 1979): 28-477

Nevada Revised Statutes (Supp 1979): 201.110

New Hampshire Revised Statutes Annotated (Supp 1979): 169-32

New Jersey Statutes Annotated (West Supp 1979/80): 2C:24-4

New York Consolidated Laws (McKinney, Supp 1979-80): 260.10

North Dakota Century Code Annotated (Supp 1979): 14-10-06

Ohio Revised Code (Page Supp 1979): 2151.41

Oklahoma Statutes Annotated (West Supp 1979/80): 10-1144

Oregon Revised Statutes (1979): 163.575

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): 18-6301

South Carolina Code Annotated (Supp 1978): 16-17-490

Tennessee Code Annotated (Supp 1979): 37-254

Texas Statutes Annotated (Vernon's Supp 1979): Civil Statutes 2338-1a

Vermont Statutes Annotated (Supp 1979): 13-1301

Virginia Code Annotated (Supp 1979): 18.2-35.1

Wyoming Statutes Annotated (Supp 1979): 14-2-101

## APPENDIX Q

## PROHIBITED DISTRIBUTION OF OBSCENE MATERIAL TO MINORS

Alabama Code Annotated (Supp 1979): 13-7-210 to 13-7-213

Arizona Revised Statutes Annotated (West Supp 1979/80): 1-215, 13-3501 to 13-3506

Arkansas Revised Statutes Annotated: 41-3581 to 41-3582

California Annotated Codes (West Supp 1980): Welfare & Institutions 313, 313.1, 313.2

Connecticut General Statutes Annotated (Supp 1980): 53a-193, 53a-196

Delaware Code Annotated (Interim Supp 1979): 11-1106, 11-1365

Florida Statutes Annotated (West Supp 1979): 847.012 to 847.013

Georgia Code Annotated (Supp 1979): 26-99029 to 26-9905a

Hawaii Revised Laws (Supp 1979): 712-1210, 712-1215

Idaho Code Annotated (Supp 1979): 18-15-13 to 18-15-15

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 38-11-21

Indiana Statutes Annotated (Burns, Supp 1979): 35-30-11.1, 35-30-11.2

Iowa Code Annotated (West Supp 1979): 728.1 to 728.7

Kentucky Revised Statutes (Supp 1979): 531-030

Louisiana Statutes Annotated (West Supp 1979): 91.11

Maine Revised Statutes Annotated (West Supp 1979/80): 17-2911, 17-2912

Maryland Code Annotated (Supp 1979): 416 to 419

Massachusetts General Laws Annotated (Supp 1979): 272-28, 272-31

Michigan Compiled Laws Annotated (Supp 1980): 750.142, 750.143

Minnesota Statutes Annotated (West Supp 1980): 617.292 to 617.295

Mississippi Code Annotated (Supp 1979): 97-5-27

Missouri Annotated Statutes (Vernon's Supp 1980): 573.010, 573.040

Montana Code Annotated (Supp 1980): 45-8-20

Nebraska Revised Statutes (Supp 1979): 28-807, 28-808

Nevada Revised Statutes (Supp 1979): 201.259, 201.265, Chapter 267, 1979 Session Laws

New Hampshire Revised Statutes Annotated (Supp 1979): 571-B:1, 571-B:2

New Jersey Statutes Annotated (West Supp 1979/80): 2C:34(a) to 2C:34-3(e)

New Mexico Statutes Annotated (Supp 1979): 30-37-1 to 30-37-5

New York Consolidated Laws (McKinney, Supp 1979-80): 235.20 to 235.22

North Carolina General Statutes Annotated (Supp 1979): 14-190.7, 14-190.8, 14-190.10

North Dakota Century Code Annotated (Supp 1979): 12.1-27.1-02 to 12.1-27.1-03.2

Ohio Revised Code (Page Supp 1979): 2907.31

Oregon Revised Statutes (1979): 167.065 to 167.095

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): Title 18, 5903

Puerto Rico Laws Annotated (Supp 1978): Title 33, 4074-4076

Rhode Island General Laws Annotated (Supp 1979): 11-31-10

South Carolina Code Annotated (Supp 1978): 16-15-370

South Dakota Compiled Laws Annotated (Supp 1979): 22-24-29 to 22-24-31

Tennessee Code Annotated (Supp 1979): 39-1013, 39-3004, 39-3013

Texas Statutes Annotated (Vernon's Supp 1979): 43.24

Utah Code Annotated (Supp 1979): Ch. 80 1979 Session Laws

Vermont Statutes Annotated (Supp 1979): 2801, 2804 to 2805

Virginia Code Annotated (Supp 1979): 18.2-390, 18.2-391

Virgin Islands Code (Supp 1979): Title 14 - 1025

Washington Revised Code Annotated (West Supp 1979): 9.68.050, 9.68.060, 9.68.070

West Virginia Code Annotated (Supp 1979): 61-8A-1 to 61-8A-5

Wisconsin Statutes Annotated (West Supp 1979/80): 134.46

# APPENDIX R

## SEXUAL EXPLOITATION OF MINORS

Alabama Code Annotated (Supp 1979): Title 13 7-230 to 7-238

Alaska Statutes Annotated (Supp 1979): 11.41.455

Arizona Revised Statutes Annotated (West Supp 1979/80): 1-215, 13-3508, 13-3551 to 13-3555

Arkansas Revised Statutes Annotated: 41-4201 to 41-4205

California Annotated Codes (West Supp 1980): Labor Code 1309.5, Penal Code 311.4

Colorado Revised Statutes (Supp 1978): 18-6-403, 18-7-101

Connecticut General Statutes Annotated (Supp 1980): 53a-193, 53a-196a

Delaware Code Annotated (Interim Supp 1979): 11-1103, 1108, 1109

Florida Statutes Annotated (West Supp 1979): 847.014(1), 847.014(2)

Georgia Code Annotated (Supp 1979): 74-104, 54-309.1, 54-9903

Hawaii Revised Laws (Supp 1979): 707-750 to 707-751

Idaho Code Annotated (Supp 1979): 18-1517A, 18-4103

Illinois Statutes Annotated (Smith-Hurd, Supp 1979): 11-20a

Indiana Statutes Annotated (Burns, Supp 1979): 35-30-10.1-2 to 35-30-10.1-3, 35-4-4

Iowa Code Annotated (West Supp 1979): 728.1, 728.12

Kansas Statutes Annotated (Supp 1979): 21-3516

Kentucky Revised Statutes (Supp 1979): 531.300 to 531.370

Louisiana Statutes Annotated (West Supp 1979): 14:81.1

Maine Revised Statutes Annotated (West Supp 1979/80): Title 17, 2921 to 2923

Maryland Code Annotated (Supp 1979): Article 27, 419A

Massachusetts General Laws Annotated (Supp 1979): 272-29A, 272-31

Michigan Compiled Laws Annotated (Supp 1980): 409.114a, 750.145c

Minnesota Statutes Annotated (West Supp 1980): 617.246

Mississippi Code Annotated (Supp 1979): 97-3-31

Missouri Annotated Statutes (Vernon's Supp 1980): 568.060

Montana Code Annotated (Supp 1980): 45-5-625

Nebraska Revised Statutes (Supp 1979): 28-1463

Nevada Revised Statutes (Supp 1979): 200.5011, Ch. 290, 1979, Session Laws

New Hampshire Revised Statutes Annotated (Supp 1979): 650.1

New Jersey Statutes Annotated (West Supp 1979/80): 2A:142:A-1 to 2A:142:A-4

New Mexico Statutes Annotated (Supp 1979): 30-6-1

New York Consolidated Laws (McKinney, Supp 1979-80): Penal Law 263.00 to 263.15

North Carolina General Statutes Annotated (Supp 1979): 14-190.6 to 14-190-1

North Dakota Century Code Annotated (Supp 1979): 12.1-27.1-03, 14-10-01

Ohio Revised Code (Page Supp 1979): 2919.22(B)(4), 2907.32.1

Oklahoma Statutes Annotated (West Supp 1979/80): Title 21, 1021.2, 1021.3

Oregon Revised Statutes (1979): Ch. 706, 1979 Session Laws

Pennsylvania Statutes Annotated (Purdon's Supp 1979-80): Title 18, 6312

Rhode Island General Laws Annotated (Supp 1979): 11-9-1 to 11-9-1.1

South Carolina Code Annotated (Supp 1978): 16-15-380, 16-15-260

South Dakota Compiled Laws Annotated (Supp 1979): 22-22-23, 22-22-21

Tennessee Code Annotated (Supp 1979): 39-1019, 50-707(f)

Texas Statutes Annotated (Vernon's Supp 1979): Title 9 43.23, 43.28

Utah Code Annotated (Supp 1979): 76-10-1201, 76-10-1206

Virginia Code Annotated (Supp 1979): 18.2-374.1, 18.2-379

West Virginia Code Annotated (Supp 1979): 61-8A-1 to 61-8A-6, 61-8C-1 to 61-8C-3

Wisconsin Statutes Annotated (West Supp 1979/80): 940.203

✩U.S. GOVERNMENT PRINTING OFFICE: 1981-341-155/104

SS copy cover

DEPARTMENT OF
HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary
for Planning and Evaluation
Washington, D.C. 20201

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF H.H.S.
HHS 391

U.S.MAIL